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TUESDAY, AUGUST 1, 1786.

Congress assembled. Present as yesterday.

Congress resumed the consideration of a report of the board of treasury, on a requisition for the year 1786: And a motion was made by the delegates for South Carolina, to amend the said report, by adding thereto as follows:

And whereas the United States in Congress assembled, by the Act of the 30 October, 1781, required the states to pay into the federal treasury, eight Millions of dollars, and by their requisition of the 27 April, 1784, suspended the operation of one half of the said requisition of the 30 October, and called on the states to compleat the payment of the other half; And by their act of the 27 September, 1785, required of the states to pay three fourths of the remaining half of the said requisition of the 30 October, 1781; therefore *Resolved*, That any state which shall have paid a sum exceeding the said state's quota of that part of the said requisition of the 30 October, 1781, which was not suspended by the requisition of the 27 April, 1784, and the completion of which was demanded by the last mentioned requisition, and also the said state's quota of that other part of the said requisition of the 30 October, 1781, which was called for by the requisition of the 27 September, 1785, shall have credit for the amount of the sums so exceeding the quotas above mentioned, on the present requisition:

And on the question to agree to this Amendment, the yeas and nays being required by Mr. [Charles] Pinckney,

<i>New Hampshire,</i>			<i>New York,</i>		
Mr. Livermore,	no	}no	Mr. Haring,	no	}no
Long,	no		Smith,	no	
<i>Massachusetts,</i>			<i>New Jersey,</i>		
Mr. Gorham,	no	}no	Mr. Symmes,	no	}no
King,	no		Hornblower,	no	
Sedgwick,	no				
<i>Rhode Island,</i>			<i>Pennsylvania,</i>		
Mr. Manning,	no	}no	Mr. Pettit,	no	}no
Miller,	no		Bayard,	no	
<i>Connecticut,</i>			<i>Maryland,</i>		
Mr. Johnson,	no	}div.	Mr. Henry,	no	}no
Sturges,	ay		Harrison,	no	
			Ramsay,	ay	

<i>Virginia,</i>			<i>South Carolina,</i>	
Mr. Grayson,	ay	}ay	Mr. Bull,	ay
Monroe,	ay		Pinckney,	ay
Carrington,	ay		Huger,	ay
Lee,	ay		Parker,	ay
<i>North Carolina,</i>			<i>Georgia,</i>	
Mr. Bloodworth,	ay	}ay	Mr. Houstoun,	ay
White,	ay		Few,	ay

So it passed in the negative.

A motion was then made by the delegates of South Carolina, to amend the report by adding as follows:

Whereas the United States in Congress assembled, by their act of 30 October, 1781, required of the states eight millions of dollars, 373,598 of which was assigned to the state of South Carolina as their quota of the said requisition: And whereas the said state is entitled to a credit on the requisition above mentioned, for such supplies as were furnished the federal Army in 1782, and 1783; therefore *Resolved*, That the state of South Carolina shall have credit in specie on the said supplies in the present requisition, for so much as her share or proportion of the balance of the requisition of October, 1781, uncalled for by the Acts of the 27 April, 1784, and 27 September, 1785, amount to.

A motion was made by Mr. [Charles] Pettit, seconded by Mr. [Melancton] Smith, to postpone that amendment, in Order to take up the following:

Provided that so far as relates to the state of South Carolina, this requisition be considered as including one million of dollars, being that part of the requisition of the 30 October, 1781, which hath heretofore remained uncalled for, so far as to entitle the said state to the benefit of paying the same, in such manner as she was entitled to pay her quota of the said requisition of the 30 October, 1781.



And on the question to postpone for the purpose above mentioned, the yeas and nays being required by Mr. [Charles] Pinckney,

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	ay	}ay	Mr. Henry,	no	}no
Long,	ay		Harrison,	no	
<i>Massachusetts,</i>			Ramsay,	no	
Mr. Gorham,	no	}ay	<i>Virginia,</i>		
King,	ay		Mr. Grayson,	no	}no
Sedgwick,	ay		Monroe,	no	
<i>Rhode Island,</i>			Carrington,	no	
Mr. Manning,	ay	}ay	Lee,	no	
Miller,	ay		<i>North Carolina,</i>		
<i>Connecticut,</i>			Mr. Bloodworth,	no	}no
Mr. Johnson,	ay	}ay	White,	no	
Sturges,	ay		<i>South Carolina,</i>		
<i>New York,</i>			Mr. Bull,	no	}no
Mr. Haring,	ay	}ay	Pinckney,	no	
Smith,	ay		Huger,	no	
<i>New Jersey,</i>			Parker,	no	
Mr. Symmes,	no	}div.	<i>Georgia,</i>		
Hornblower,	ay		Mr. Houstoun,	no	}no
<i>Pennsylvania,</i>			Few,	no	
Mr. Pettit,	ay	}ay			
Bayard,	ay				

So the question was lost.

On the question to agree to the amendment, the yeas and nays being required by Mr. [Charles] Pinckney,

<i>New Hampshire,</i>			<i>Maryland,</i>	
Mr. Livermore,	no	}no	Mr. Henry,	ay
Long,	no		Harrison,	ay
<i>Massachusetts,</i>			Ramsay,	ay
Mr. Gorham,	ay	}no	<i>Virginia,</i>	
King,	no		Mr. Grayson,	ay
Sedgwick,	no		Monroe,	ay
<i>Rhode Island,</i>			Carrington,	ay
Mr. Manning,	no	}no	Lee,	ay
Miller,	no		<i>North Carolina,</i>	
<i>Connecticut,</i>			Mr. Bloodworth,	ay
Mr. Johnson,	no	}div.	White,	ay
Sturges,	ay		<i>South Carolina,</i>	
<i>New York,</i>			Mr. Bull,	ay
Mr. Haring,	no	}no	Pinckney,	ay
Smith,	no		Huger,	ay
<i>New Jersey,</i>			Parker,	ay
Mr. Symmes,	no	}no	<i>Georgia,</i>	
Hornblower,	no		Mr. Houstoun,	ay
<i>Pennsylvania,</i>			Few,	ay
Mr. Pettit,	no	}no		
Bayard,	no			

So the question was lost.

A motion was then made by Mr. [Charles] Pettit, seconded by Mr. [Nathan] Miller, to amend the report by making provision for the payment of two years interest on the domestic debt, and instead of reading "Domestic debt, one year's interest thereon, 1,606,560<sup>65</sup>/<sub>100</sub> dollars," to read, "domestic debt, two years interest thereon, 3,213,121<sup>40</sup>/<sub>100</sub> dollars:" And on the question to agree to this amendment, the yeas and nays being required by Mr. [Charles] Pettit,

<i>New Hampshire,</i>			<i>Maryland,</i>	
Mr. Livermore,	no	}	no	}
Long,	no		no	
<i>Massachusetts,</i>			<i>Virginia,</i>	
Mr. Gorham,	no	}	ay	}
King,	no		ay	
Sedgwick,	no		no	
<i>Rhode Island,</i>			<i>North Carolina,</i>	
Mr. Manning,	ay	}	ay	}
Miller,	ay		no	
<i>Connecticut,</i>			<i>South Carolina,</i>	
Mr. Johnson,	ay	}	ay	}
Sturges,	no		no	
<i>New York,</i>			<i>Georgia,</i>	
Mr. Haring,	no	}	no	}
Smith,	no		no	
<i>New Jersey,</i>			<i>Mr. Houstoun,</i>	
Mr. Symmes,	ay	}	ay	}
Hornblower,	ay		no	
<i>Pennsylvania,</i>			<i>Few,</i>	
Mr. Pettit,	ay	}		}
Bayard,	ay			

So the question was lost.

A motion was then made by Mr. [William] Grayson, seconded by Mr. [Rufus] King, to amend the clause of the report restraining the Commissioner of the Continental loan Office, from issuing certificates for the interest due on the domestic debt, "until the state for which he is Continental

loan officer shall have passed a legislative Act complying with this requisition," by inserting the words, "thereby providing adequate funds for" immediately after the words "legislative Act," so that it read "until the state for which he is Continental loan officer shall have passed a legislative act, thereby providing adequate funds for complying with this requisition:" And on the question to agree to this amendment, the yeas and nays being required by Mr. [William] Grayson,

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	no	}no	Mr. Henry,	ay	}ay
Long,	no		Harrison,	ay	
<i>Massachusetts,</i>			Ramsay,	no	
Mr. Gorham,	ay	}ay	<i>Virginia,</i>		
King,	ay		Mr. Grayson,	ay	}ay
Sedgwick,	no		Monroe,	ay	
<i>Rhode Island,</i>			Carrington,	ay	
Mr. Manning,	ay	}ay	<i>North Carolina,</i>		
Miller,	ay		Mr. Bloodworth,	no	}div.
<i>Connecticut,</i>			White,	ay	
Mr. Johnson,	no	}div.	<i>South Carolina,</i>		
Sturges,	ay		Mr. Bull,	ay	}ay
<i>New York,</i>			Pinckney,	ay	
Mr. Haring,	no	}div.	<i>Georgia,</i>		
Smith,	ay		Mr. Houstoun,	ay	}ay
<i>New Jersey,</i>			Few,	ay	
Mr. Symmes,	ay	}*			
<i>Pennsylvania,</i>					
Mr. Pettit,	ay	}ay			
Bayard,	ay				

So it was resolved in the affirmative.

AUG. 1, 1786.

After debate, an order passed for Secretary for foreign Affairs to attend Congress on thursday next, at 12 O'clock on the subject of his letter of 29<sup>th</sup> May.<sup>1</sup>

OFFICE OF SECRETARY OF CONGRESS,  
*August 1, 1786.*

On the petition of Daniel Pendleton late a capt. in the Corps of Artificers, stating his services and claiming Commutation for half pay—

Agreed to Aug. 1. The Secretary of Congress reports That the petition of Daniel Pendleton be referred to the Commissioner of Army Accounts to report.

On the memorial of Francis Cazeau stating his sufferings and that he unintentionally omitted in his former Account to charge several items annexed to this memorial amounting to 110 dollars and praying that the same may be allowed and paid him—

Agreed to Aug. 1. The Secy of Congress reports That the memorial of Francis Cazeau be referred to the board of treasury.<sup>2</sup>

WAR OFFICE, *August 1<sup>st</sup>, 1786.*

SIR: I have the honor to inform Congress, that in consequence of some representations of the insecure situation of a large quantity of shot and shells at Salisbury in Connecticut, amounting to about two hundred tons, they have been removed to the arsenal at Springfield.

It has been my anxious desire, that the great quantities of shot and shells, which are remaining at the furnaces where they were cast, should have been transported to the several deposits which are under the special charge of a public storekeeper, but the public treasury has not been in a situation to furnish the means of transportation. This difficulty prevents the transportation of the stores which are in the State of Rhode Island to Springfield.

<sup>1</sup> This entry by Thomson is in *Secret Journal, Foreign*, No. 5. According to *Committee Book* No. 190 the committee of May 31 on Jay's letter of May 29 was this day, August 1, discharged after it had recommended that the letter be referred to a Committee of the Whole. See *ante*, May 31. Thomson's letter to Jay requiring his attendance is in No. 55, folio 319. See *post*, August 3.

<sup>2</sup> These proceedings are entered in *Reports of the Secretary of Congress*, No. 180. *Committee Book* No. 190 notes that the Board of Treasury reported August 15 on Cazeau and the Commissioner September 14 on Pendleton.

The repairable arms at New London in Virginia and at West point on Hudsons river ought to be rendered fit for service. In their present situation they are entirely useless and their value continually decreasing, whereas were they once put in order, they could constantly be Kept so with very little expense. But the want of money prevents the desirable operation, and it also prevents the payment of the ordnance storekeepers, and the rents of the buildings occupied by the public in Philadelphia, and Virginia all of which are in arrears for the whole of the present year.

In order that the valuable and important stores may be put in such order as to be servicable to the United States; and that the keepers of the stores may be paid their arrearages, a circumstance important to their integrity, I have the honor to submit to Congress the consideration of selling at public auction or otherwise some of the unimportant and unservicable stores. For this purpose I herewith transmit a list of such stores as may be sold with the least injury to the public, and I beg leave to submit the following resolution to Congress,

*Resolved*, That the Secretary at war direct to be sold at public Auction or otherwise such unservicable Ordnance, and Ordnance and Military stores, as remain in the public arsenals and magazines, agreeably to a list thereof of this date on the files of Congress, and that he render an account of the same to the Comptroller of the treasury.

I have the honor to be etc.

H. KNOX.<sup>1</sup>

His Excellency,

The president of Congress.

<sup>1</sup> This letter is in the *Papers of the Continental Congress*, No. 150, I, folio 455. According to indorsement it was read August 1. See *post*, April 24, 1787. The list of stores is on folio 451.

AUGUST 1: According to indorsement there was this day read a letter from the Secretary at War submitting to Congress a statement of payments made to the troops in the service of the United States. It is in No. 150, I, folio 467.

Also was read a report of the Board of Treasury, dated July 31, on a memorial of Donald Campbell on the settlement of his accounts. It is in No. 138, I, folio 175. It appears to have been acted on September 12, 1788, after the receipt of another memorial from Campbell dated September 1, 1788.



WEDNESDAY, AUGUST 2, 1786.

Congress assembled. Present as before.

Congress resumed the Consideration of the Requisition for 1786, and a motion was made by the delegates for South Carolina, to amend the requisition by adding thereto,

And whereas the State of South Carolina, in consequence of supplies furnished the federal army in 1782 and 1783, is entitled to a credit of her full quota of the requisition of the 30 October, 1781, for eight Millions of dollars, the payment of seven Millions of which have only been called for by the requisitions of the 27 April, 1784, and 27 September, 1785; *Resolved*, That the said state shall be entitled, on account of the said supplies, to a credit in the present requisition, for the sum her quota of the balance of the said requisition of the 30 October, 1781, amounts to, had the same been included in the present demand.

On the question to agree to this Amendment, the yeas and nays being required by Mr. [Charles] Pinckney,

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	no	}no	Mr. Henry,	ay	}ay
Long,	no		Harrison,	ay	
<i>Massachusetts,</i>			Ramsay,	ay	
Mr. Gorham,	ay	}no	<i>Virginia,</i>		
King,	no		Mr. Grayson,	ay	}ay
Sedgwick,	no		Carrington,	ay	
<i>Rhode Island,</i>			Lee,	ay	
Mr. Manning,	no	}no	<i>North Carolina,</i>		
Miller,	no		Mr. Bloodworth,	ay	}ay
<i>Connecticut,</i>			White,	ay	
Mr. Johnson,	ay	}div.	<i>South Carolina,</i>		
Sturges,	no		Mr. Bull,	ay	}ay
<i>New York,</i>			Pinckney,	ay	
Mr. Haring,	no	}no	Huger,	ay	
Smith,	no		Parker,	ay	
<i>New Jersey,</i>			<i>Georgia,</i>		
Mr. Symmes,	ay	}div.	Mr. Houstoun,	ay	}ay
Hornblower,	no		Few,	ay	
<i>Pennsylvania,</i>					
Mr. Pettit,	no	}no			
Bayard,	no				

So the question was lost.

A motion was then made by the delegates for South Carolina, to amend the Requisition by adding the following proviso:

Provided, that so far as relates to the state of South Carolina, this requisition be considered as including one Million of dollars, being that part of the requisition of 30 October, 1781, which hath heretofore remained uncalled for, so far as to entitle the said state to the benefit of paying the same in such manner as she was entitled to pay her quota of the said requisition.

And on the question to agree to this Amendment, the yeas and nays being required by Mr. [Charles] Pinckney,

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	no	}no	Mr. Henry,	ay	}ay
Long,	no		Harrison,	ay	
<i>Massachusetts,</i>			Ramsay,	ay	
Mr. Gorham,	ay	}ay	<i>Virginia,</i>		
King,	ay		Mr. Grayson,	ay	}ay
Sedgwick,	no		Carrington,	ay	
<i>Rhode Island,</i>			Lee,	ay	
Mr. Manning,	ay	}div.	<i>North Carolina,</i>		
Miller,	no		Mr. Bloodworth,	ay	}ay
<i>Connecticut,</i>			White,	ay	
Mr. Johnson,	ay	}div.	<i>South Carolina,</i>		
Sturges,	no		Mr. Bull,	ay	}ay
<i>New York,</i>			Pinckney,	ay	
Mr. Haring,	no	}no	Huger,	ay	
Smith,	no		Parker,	ay	
<i>New Jersey,</i>			<i>Georgia,</i>		
Mr. Symmes,	ay	}ay	Mr. Houstoun,	ay	}ay
Hornblower,	ay		Few,	ay	
<i>Pennsylvania,</i>					
Mr. Pettit,	ay	}ay			
Bayard,	ay				

So it was resolved in the affirmative.



A motion was then made by Mr. [Charles] Pettit, seconded by Mr. [John Bubenheim] Bayard, to strike out the following clause of the estimate, viz.

For the payment of principal and interest, due (on foreign debt) in the year 1787, which ought to be provided for this year, 1,392,059<sup>1</sup>/<sub>100</sub> dollars.

On the question, shall that clause stand? the yeas and nays being required by Mr. [Charles] Pettit,

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	no	}no	Mr. Henry,	ay	}ay
Long,	no		Harrison,	ay	
<i>Massachusetts,</i>			Ramsay,	ay	
Mr. Gorham,	no	}ay	<i>Virginia,</i>		
King,	ay		Mr. Grayson,	ay	}ay
Sedgwick,	ay		Carrington,	ay	
<i>Rhode Island,</i>			Lee,	ay	
Mr. Manning,	ay	}ay	<i>North Carolina,</i>		
Miller,	ay		Mr. Bloodworth,	ay	}ay
<i>Connecticut,</i>			White,	ay	
Mr. Johnson,	ay	}ay	<i>South Carolina,</i>		
Sturges,	ay		Mr. Bull,	ay	}ay
<i>New York,</i>			Pinckney,	ay	
Mr. Haring,	ay	}ay	Huger,	ay	
Smith,	ay		Parker,	ay	
<i>New Jersey,</i>			<i>Georgia,</i>		
Mr. Symmes,	ay	}div.	Mr. Houstoun,	ay	}ay
Hornblower,	no		Few,	ay	
<i>Pennsylvania,</i>					
Mr. Pettit,	no	}no			
Bayard,	no				

So it was resolved in the affirmative.

On the question, *Resolved*, That for the services of the present year, 1786, for the payment of the interest, and two installments of principal on the French and Dutch loans, that are payable according to the contracts, in the beginning of the year 1787, and for<sup>1</sup> the payment of one year's interest

<sup>1</sup> At this point Benjamin Bankson begins the entry.

on the domestic debt, it will be necessary that three Millions, seven hundred and seventy-seven thousand and sixty-two dollars  $\frac{43}{90}$  be paid into the common Treasury, on or before the first day of January next, to be appropriated to the following purposes:

For the Civil Department,	-	-	-	-	-	-	Doll <sup>rs</sup>	169,352.86
Military Department,	-	-	-	-	-	-	-	168,274.50
Contingencies,	-	-	-	-	-	-	-	94,294.65
Indian Affairs,	-	-	-	-	-	-	-	6,000.
The Department of the Geographer,	-	-	-	-	-	-	-	8,953.

*Foreign Debt.*

For the payment of Interest due this year on the French and Dutch Loans,								317,985.10
For ditto, of Principal and Interest due in the year 1787, which ought to be provided for this year,								1,392,059.17
For a balance of Interest, due on the Spanish Loan,								2,396.55
For one year's Interest on debts due to Foreign Officers,								11,185.55
Domestic Debt, one year's Interest thereon,	-	-	-	-	-	-	-	1,606,560.65
								3,777,062.43
							Dollars,	

*That the Quotas of the several States be as follows:*

	Indents.	Specie.		Indents.	Specie.
New Hampshire,		76,268	Maryland,		204,775
Ditto,	56,452		Ditto,	151,570	
Massachusetts,		324,746	Virginia,		371,136
Ditto,	240,370		Ditto,	274,707	
Rhode Island,		46,764	North Carolina,		157,732
Ditto,	34,613		Ditto,	116,749	
Connecticut,		191,135	South Carolina,		139,017
Ditto,	141,474		Ditto,	103,015	
New York,		185,567	Georgia,		23,288
Ditto,	137,434				
New Jersey,		120,619		Specie	2,170,430
Ditto,	89,279		Ditto,	17,167	
Pennsylvania,		296,908			
Ditto,	219,765			Indents,	1,606,632
Delaware,		32,475			
Ditto,	24,037				
			Total,		3,777,062

That the foregoing requisition is made in virtue of the powers of the Confederation, and is obligatory on the States as such, and, when paid, shall be passed to the Credit of the

States respectively, on the terms prescribed by the resolve of Congress of the 6th day of October, 1779, and shall be applied in conformity to the statement in the preceding part of this requisition, giving preference according to the order in which they are placed in the estimate.

As one Million, six hundred and six thousand, five hundred and sixty dollars called for is to be applied to the payment of the interest on the domestic debt, that the several States be allowed to discharge the same by Indents for interest on Loan Office Certificates, and upon other Certificates of the liquidated debts of the United States: And to ascertain the evidences of interest due upon Loan Office Certificates, the holders thereof respectively, shall be at liberty to carry them to the Office from which they issued, and the holders of other Certificates of liquidated debts of the United States, to carry the same to the Loan Office of that State wherein they are Inhabitants, or, if foreigners, to any Loan Office within the United States, and to have the interest thereon settled and certified to the last day of the year 1785.

Provided that the Commissioner of the Continental Loan Office in any State, shall not, on any pretence whatever, settle or issue any Certificate or Certificates, for the interest due on any Continental Loan Office Certificate, or other Certificate of liquidated debts, until the State for which he is Continental Loan Officer, shall have passed a legislative Act thereby providing adequate funds for complying with this requisition; nor shall the Commissioner aforesaid, in any State that shall have complied with this requisition, issue any Certificate, or take any other measure whereby a discrimination may be made by such State, between the holders of Loan Office Certificates issued from his Office, who are Citizens of that State, and Foreigners, or the Citizens of any other State that shall have complied with this requisition: Provided always, that any Continental Loan Officer shall issue Certificates for interest as aforesaid, due on Continental Loan

Office Certificates issued from his Office, and belonging to foreigners, and also to the Citizens of such States as shall have passed a legislative Act complying with this requisition.

That every Commissioner of the Continental Loan Office, previously to settling and issuing Certificates as aforesaid, for the interest due on Certificates of liquidated debts, other than loan office Certificates, shall administer an oath or affirmation, or require a Certificate signed by one of the persons whom the State in which the Commissioner resides, shall, in the legislative Act complying with this requisition, appoint, that he has administered to the Owner or possessor of every such Certificate, an oath or affirmation, that the same is *bona fide*, the property of the particular State in which the said Commissioner resides, or of a Citizen or Citizens of the said State, or of some corporate body or Charitable institution within the same, or of some person who is not a Citizen of any of the United States, describing the Certificate or certificates alluded to in every such oath or affirmation, in such manner as shall be necessary to identify the same, or as may be prescribed by the Legislature of the said State.

And for preventing the depreciation of Certificates to be issued as aforesaid, the Legislature of each State is required to provide, in the act complying with this requisition, that if, on the first day of July, 1787, the said State's quota of the said Certificates so to be issued, shall not be in the hands of the State Treasurer, or other proper Officer, the deficiency shall be collected and paid into the Continental Treasury in Specie, which, when so paid, is hereby appropriated to the redemption of such surplus Certificates.

That the Board of Treasury furnish the several Loan Officers, with Certificates to be issued for interest as aforesaid; and also with such Checks and instructions, as they, from time to time, shall judge necessary, to prevent Counterfeited Certificates of debts from obtaining a settlement of interest, and to detect counterfeit evidences of interest, and thereby

to avoid receiving them in discharge of taxes: which Certificates of interest being parted with by the holders of the principal, shall be deemed evidence that he has received satisfaction for the same; and therefore shall be receivable from the Bearer in lieu of money, in the proportion of one dollar and one third in Specie for one dollar in Indents, in any other State in the Union, as well as in the State in which they were issued. That the State receiving such Certificates, and paying the same into the public Treasury, with a portion of Specie as aforesaid, shall have credit therefor, which payment shall be considered as a discharge of the interest on the domestic debt, in the proportion that each State avails itself of the said Certificates of interest. That all Loan Office Certificates issued after the first day of March, 1778, shall be reduced to their Specie value, conformably to the resolution of Congress of the 28 June, 1780, and the interest shall be ascertained and settled, agreeably to the Specie value of the Certificate.

Provided, that so far as relates to the State of South Carolina, this requisition be considered as including one million of Dollars, being that part of the requisition of 30 October, 1781, which hath heretofore remained uncalled for, so far as to entitle the said State to the benefit of paying the same in such manner, as she was entitled to pay her quota of the said requisition.<sup>1</sup>

The Committee consisting of Mr. [Charles] Pinckney, Mr. [Rufus] King, and Mr. [Edward] Carrington to whom was referred a report of the board of treasury on a motion from South Carolina, Report \* \* \*

That there are  $13,104\frac{10}{90}$  dollars due the officers of the late Virginia line and  $10,276\frac{12}{90}$  due the officers of the late South Carolina line and hospital department for the same pay in 1782 and 1783.

<sup>1</sup> This is the report, *verbatim*, of the Board of Treasury, dated June 22, 1786, and read June 27. It is in No. 139, folio 233, in the handwriting of a clerk, with various changes in the writing of Samuel Osgood and Charles Thomson.



The said board farther report there can be no doubt these officers are entitled to the same payments as were made the officers of the main army, and the presumption is that nothing but the state of the finances prevented the late superintendant of finances from putting the southern officers upon an equal footing with the other part of that line.

Whereupon the Committee submit the following resolutions.<sup>1</sup>

[OFFICE OF SECRETARY OF CONGRESS]

August 2, 1786.

On the two memorials of Peter Landais, the one claiming interest on the gratuity of 12,000 livres from 4 Dec<sup>r</sup>, 1777 (the time he thinks it ought to have been paid to him), to the 6 March, 1779 (the time when Congress was pleased to make the grant), and interest upon that Interest from the 6 May, 1785, to the time it will be paid. The other claiming to be paid in ready money the sum of 1,814 $\frac{4}{10}$  dollars for which Congress by their Act of the 2 June, 1785, ordered the Com<sup>r</sup> for settling the Accounts of the marine department to give him a certificate bearing an Int: of 6 per cent pr an. from 6 May, 1785.

Agreed to Aug. 2. The Secretary of Congress reports That the memorials of Peter Landais be referred to the board of treasury.

On the petition of Thomas Scott, late waggonmaster claiming pay for his services from 1 May, 1777, to 1 Aug., 1780, and for ten horses which he says were taken from him by enemy refugees in Dec<sup>r</sup>, 1779.

Agreed to Aug. 2. The Secretary of Congress reports That the petition of Thomas Scott be referred to the board of treasury.<sup>2</sup>

<sup>1</sup> This report, in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 20, II, folio 233. According to indorsement it was read August 2. The omitted paragraph and the submitted resolutions were adopted *verbatim* October 10, 1786, and are there spread on the Journal.

<sup>2</sup> These proceedings were entered in the *Reports of the Secretary of Congress*, No. 180.

AUGUST 2: "Board of treasury. Their letter on report accompanying the requisition for 1786 to prepare and report an Address to the States to accompany the requisition." The Board reported August 31.

*Committee Book, No. 190.*

Also, according to indorsement, was read a letter from the Secretary for Foreign Affairs, forwarding letters of May 12, 23, 27 and 31 from Thomas Jefferson and June 6 from John Adams. Jay's letter is in No. 80, II, folio 45. Jefferson's are in No. 87, I, folios 255, 367, 381, 478 and 498; Adams' is in No. 84, VI, folio 211.

<sup>1</sup> THURSDAY, AUGUST 3, 1786.

Congress assembled. Present, as before.

On a report of the Secretary at War, on the expediency of retaining West Point as a military post,

*Resolved*, That the board of treasury endeavour to negotiate with the legal proprietor of West Point, on Hudson's river, the purchase of the same for the United States, on an equitable appraisement, together with so much land contiguous thereto, as shall be deemed by the Secretary at War necessary to be included within the limits of the garrison; and that the board agree for the terms of payment in the manner most consistent with the state of the finances of the United States.

AUG. 3, 1786.

According to Order the Secretary for foreign Affairs attended; and being called upon to state the difficulties mentioned in his letter of the 29, and explain himself on the subject of that letter.

The Secretary for foreign Affairs informed Congress that he had some time since received from Mr. Gardoqui an unofficial and unsigned paper:

Spain being by far the greatest Consumer of all the European Kingdoms, and having besides extensive territories of Consume in her West Indies, it is of course of the greatest importance to any foreign nation in all Commercial interests.

<sup>1</sup> Charles Thomson here resumes the entries.

England is very conscious of the advantages that may be gott by a friendly Commercial treaty, and leaves no pains to bring it to a happy conclusion as soon as possible. She well knows that Spain's annual consume of Cod-fish, brings her in from 4 to 5 Millions of dollars, by which she employs between 5 or 6000 Seamen.

That great quantities of pickled Salmon and Train Oil are besides pouring annually into the Spanish Markets from her ports.

To this must be added, her great woolen Manufactures, but as Spain is advancing fast in the latter, and will probably stop the importation of them, England wants to secure the fisheries which sees no prospect of Spain's having any at all.

Under the above principles, England exerts to the utmost to prevent that American States should come to a friendly good understanding with Spain, fully assur'd that no other Nation can outrival them in the valuable branches of fisheries.

She well knows that the local situation of the United States and other advantages render a much better fish than that of Newfoundland, and that the Spanish Markets afford 1 to 1½ dollars pr. quintal more to the former. She is besides fully persuaded that the trade of the States with Spain must rise them amazingly, as their Flour, grain, rice, Tobacco and several other smaller articles, such as Lumber, Masts, Yards, Beeswax &c: are valuable. If it be added to this, the consideration that Spain and the States, are the almost only Masters of this vast Continent, who if well join'd may defy the other powers or at least keep them in



eternal peace, there can be no doubt of its being a mutual interest.<sup>1</sup>

and afterwards a letter, dated 25 May, 1786, which he laid before Congress:

NEW YORK, 25<sup>th</sup> May, 1786.

SIR: The period is arrived that we have wished for many months when there would be a full meeting of Congress, that you might refer to them the difficulty which you have manifested to me respecting the claim to navigate the river Mississippi, which is ill founded. I request the favour of you to do it as soon as possible, and that you will be persuaded of what I have always assured you, that the King will not permit any Nation to navigate between the two banks belonging to his Majesty from the extent of his conquests made by his royal arms over the English in East and West Florida, according to the dominion formerly held by the English, and the jurisdiction exercised by the Commandant of Pensacola on which it depended, as well as the Countries to the East of the Mississippi of which formal possession was taken by Captain Don Baltazar de Villers, Commandant of the post of Arkanzar, for his Majesty on the 22<sup>d</sup> November, 1780.

His Majesty does not consider the regulation made between the United States and Great Britain respecting the territories conquered by his arms but as a conditional agreement in which they tacitly leave safe the territorial rights which he possessed in those parts.

Those territories were in that same state of conquest and in the possession neither of England nor the United States, when they disposed of them. There can be no doubt, but that Treaty of 30<sup>th</sup> November, 1782, when the

<sup>1</sup> This document is in the writing of Benjamin Bankson in *Secret Journal, Foreign*, No. 5; the original, written in English by Gardoqui, is in No. 97, folio 170.

War between Spain and England continued, could not fix the limits of Countries which were not in possession.

His Majesty therefore understands those stipulations as conditional, and dependent on the situation in which things might be left by a general peace.

The Honorable Congress cannot be ignorant of the good and generous disposition of his Majesty towards the United States, and the importance of his powerful friendship, his Majesty having been pleased to give so many strong proofs of favour to the Americans Captive in Barbary, and those he afterwards afforded for aiding their Commissioners for negotiating and obtaining peace with those powers.

They should also be persuaded that the King enjoys so great consideration with those powers, that as being a Nation which possesses the friendship of his Majesty, they may be sure of that of the Emperor of Morocco and in a great degree of that contracted with the Regency of Algiers. America has reason to fear the evil consequences which all their Commerce would experience if his royal Mediation should be withdrawn, for she would not only be deprived of that in the Mediterranean, but would also be much interrupted in that which she carries on through the Western Islands and Canaries, and even on their own Coasts.

It appears to me equally just to remind the Honorable Congress of the generosity with which his Majesty has delayed requesting 'till now the payment of the principal of the debts contracted by the United States both in Spain and America, being so delicate as not to apply even for the interest due thereon notwithstanding the difficulties with which he provides for his Treasury.

These facts appear sufficient to remove the difficulties you have manifested to me respecting limits and the navigation of the said River, but I contemplate in its

greatest latitude the risk which the United States would run, by not yielding without delay to the just rights of the King of losing the only trade, whose balance is in their favour, exposing themselves to the danger of enjoying it but illy, and of frustrating other Compacts, reciprocally useful, which time and experience may bring about.

The importance of this object is evident in all the States, for it is well known that all their productions meet with a ready sale in the Markets of Spain, where they are paid for in Gold and Silver, whereas all other Nations pay with Manufactures (in great part Articles of luxury) with which they impoverish this Country.

Spain in its present state is a Consumer both in Europe and America. There is not a Nation but what earnestly desires the friendship and favour of the King, and as he has no occasion for the Cod-fish, Oil, Salmon, Grain, Flour, Rice, nor other productions, he may, considering the right which obliges his Subjects to provide themselves by their own industry or other useful and important means, find it convenient to prohibit them, to remind this Nation at present, as a friend, that they have no Treaty. Whereas, in case they generously comply, the King will consider them, in Commerce, as being the most favored Nation, making reciprocal regulations, so that whenever one is made here favourable to Spain in regard to imports and exports, another equivalent to that of the United States shall there be made.

No one is ignorant of the great advantages which the United States derive from their trade with Spain, from whence they yearly extract Millions, as well by their productions as by their Navigation which so much promotes the growth and Maintenance of their Marine.

Spain has no occasion for foreign commodities to become very brilliant in its proper dominions, and to find

an advantageous Consumption for its products and manufactures; so that the generosity and friendship which she manifests, proceed solely from the benevolent attentions which with a liberal hand the King wishes to distinguish the United States.

In consideration that nothing be said of such difficulties, I believe that his Majesty will consent to guarranty to the United States their rights and dominions, as they shall be left by our Treaty.

I will do my best endeavours on this and other points, and will interpose my prayers that his Majesty will adopt the most favourable measures in order that the satisfaction of the debts due from the United States, to Spain may be made with such relaxations as may be convenient to them.

The Honorable Congress will well perceive the importance of the Guarantee and friendship of one of the first Sovereigns in Europe, which will give consistency to their Confederacy, and whose Magnanimity desires only to proceed by equity, justice, and sincere desires of a constant friendship, and good neighbourhood.

I ought not, therefore, to doubt but that such an illustrious Confederacy will entertain correspondent dispositions, and I hope that you will not delay to promote it, and to advise me as soon as possible, that so salutary a work may not be deferred, to which for my part, I shall contribute with the greatest good will for the benefit of both Nations.

I have the Honor to be, &c:

DIEGO DE GARDOQUI.<sup>1</sup>

Sen<sup>r</sup> D<sup>r</sup> JOHN JAY,

*Minister for the foreign affairs of the United States.*

<sup>1</sup> This is entered by Benjamin Bankson in *Secret Journal, Foreign*, No. 5. Copies are in No. 80, II, folio 189, and 97, folio 166.

And the same being read, he<sup>1</sup> then delivered himself as follows:

<sup>2</sup> SIR: Every person to whom is committed the management of a negotiation, from which many good or ill consequences will probably result, must find himself placed in a very delicate and responsible Situation. In that point of light I consider our present Negotiations with Spain, and that my sentiments on the subject may be conveyed to Congress with precision, and authentick evidence of them preserved, I have reduced them to writing as concisely and accurately as I could find leisure to do since I received notice to attend this day.

It appears to me, that a proper Commercial treaty with Spain would be of more importance to the United States than any they have formed, or can form, with any other Nation. I am led to entertain this opinion from the influence which Spain may and will have both on our politicks and Commerce.

France, whom we consider as our Ally, and to whom we shall naturally turn our eyes for aid in case of war, &c. is strongly bound to Spain by the family compact; and the advantages she derives from it are so various and so great, that it is questionable whether she could ever remain neutre in case of a rupture between us and his Catholic Majesty. Besides, we are well apprized of the sentiments of France relative to our Western Claims; in which I include that of freely navigating the river Mississippi. I take it for granted that, while the compact in question exists, France will invariably think it her interest to prefer the good will of Spain to the good will of America; and altho' she would very reluctantly give umbrage to either, yet, if driven to take part with one

<sup>1</sup> Secretary Jay.

<sup>2</sup> At this point Benjamin Bankson begins the entry in the Journal.



or the other, I think it would not be in our favour. Unless we are friends with Spain, her influence, whether more or less, on the Counsels of Versailles, will always be against us.

The intermarriages between Spain and Portugal, which have taken place in this and the late Reigns, have given the former a degree of influence at the Court of the latter which she never before possessed; and leading men in both those Kingdoms seem disposed to bury former jealousies and apprehensions in mutual confidence and good offices. How far this system may be perfected, or how long continue, is uncertain; while it lasts, we must expect good or evil from it, according as we stand well or ill with Spain.

Britain would be rejoiced to find us at variance with Spain on any points. She remembers that we were once her Subjects, and loves us not. She perceives that we are her most important rivals in the Spanish trade, and that her nursery of Seamen on the banks of Newfoundland will prosper or otherwise, as ours of the like kind shall encrease or diminish; and it will encrease or diminish in proportion as we may or may not undersell them at foreign Markets, among which that of Spain is the most advantageous.

If Spain should be disposed to sink that scale in favour of Britain, there is little reason to doubt but that the latter will offer her powerful inducements to grant and perpetuate valuable preferences to her.

It is hard to say how far these inducements may extend, or how far they might *both* think it their interest to join in every measure tending to impair our strength, and thereby quiet those fears, with which uneasy Borderers and discontented neighbours usually inspire each other.

Recent transactions tell us that the influence of Spain in Barbary is not contemptible. When time shall have cast a thicker veil over the memory of past and long continued hostilities; when the convenience of Spanish money and Spanish favors shall become better known, and more felt at Fez, Algiers, &c. it is more than probable that those powers will be little inclined to disoblige a nation, whose arms have given them much trouble, and from whose gratuities they derive more wealth and advantages than they have ever been able to reap from depredations and from plunder often hardly gained.

The influence which the Catholic King will and must have, in greater or lesser degrees in Italy, with several of whose Sovereigns he is allied by blood, as well as by treaties, merits some consideration. The trade of the Mediterranean deserves our notice; and Spain has convenient ports in that Sea.

In various ways, therefore, may Spain promote or oppose our political interests with several other Countries; and we shall, I think, either find her in America a very convenient Neighbour, or a very troublesome one.

They who are acquainted with the Commerce of that Country, can be at no loss in perceiving or estimating its value.

It is well known that they consume more than they export, and consequently that the balance of trade is and must be against them. Hence it is that the Millions they yearly bring from the Mines of America, so soon disappear, flying out of Spain by every road and port in it.

Details would be tedious, and considering where I am, unnecessary. It is sufficient to observe, that there is scarcely a single production of this Country but what may be advantageously exchanged in the Spanish Euro-

pean ports for Gold and Silver. These advantages, however, must depend on a Treaty; for Spain, like other Nations, may admit Foreigners to trade with her or not, and on such terms only as she may think proper.

The conclusion I draw from what has been said is, that on general principles of policy and Commerce, it is the interest of the United States to be on the best terms with Spain. This conclusion would be greatly strengthened by a review of our present local and other circumstances; but they are well known, and their language is strong and intelligible.

Sir, I do really believe that Spain is at present sincerely disposed to make friends of us. I believe this not because they have repeatedly *told* us so; for in my opinion little reliance is to be made on the professions of Courts or Courtiers; they will say what they may think convenient, but they will act according to what they may think their interest.

It appears to me that the Independence, situation, temper, resources and other circumstances of the United States, lead the Court of Spain to regard them with much attention, and I may add with jealousy and apprehension.

Their conduct induces me to think that their present policy and design is, to cultivate our friendship, and ensure the continuance of it, by such advantages in a treaty as may prevent its becoming our interest to break with them.

To this cause I ascribe the Civilities shown to the United States, by the release of their Citizens at the Havanna, and by the interposition of his Catholic Majesty in their favour at Morocco, &c.



To the same cause I ascribe the very liberal and beneficial Articles which their plenipotentiary here is willing to have inserted in the treaty I am now negotiating with him, and which are specified in the following notes of them, viz.

1. That all Commercial regulations affecting each other shall be founded in perfect reciprocity. Spanish Merchants shall enjoy all the Commercial privileges of Native Merchants in the United States, and American Merchants shall enjoy all the Commercial privileges of Native Merchants in the Kingdom of Spain and in the Canaries and other Islands belonging and adjacent thereto. The same privileges shall extend to their respective Vessels, and Merchandize consisting of the Manufactures and productions of their respective Countries.

2. Each party may establish Consuls in the Countries of the other (excepting such provinces in Spain, into which none have heretofore been admitted, viz. Bilboa and Guipusca) with such powers and privileges as shall be ascertained by a particular Convention.

3. That the bona fide Manufactures and productions of the United States (Tobacco only excepted, which shall continue under its present regulations) may be imported in American or Spanish Vessels, into any parts of his Majesty's European Dominions and Islands aforesaid, in like manner as if they were the productions of Spain. And on the other hand, that the bona fide Manufactures and productions of his Majesty's dominions may be imported into the United States, in Spanish or American Vessels, in like manner as if they were the Manufactures and productions of the said States. And further, that all such duties and imposts as may mutually be thought necessary to lay on them by either

party, shall be ascertained and regulated on principles of exact reciprocity, by a tariff to be formed by a Convention for that purpose, to be negotiated and made within *one* year after the exchange of the ratification of this treaty; and in the mean time, that no other duties or imposts shall be exacted from each others Merchants and Ships than such as may be payable by Natives in like cases.

4. That inasmuch as the United States, from not having Mines of Gold and Silver, may often want supplies of Specie for a circulating medium, his Catholic Majesty, as a proof of his good will, agrees to order the Masts and timber which may from time to time be wanted for his royal navy, to be purchased, and paid for in Specie, in the United States; provided the said Masts and Timber shall be of equal quality, and, when brought to Spain, shall not cost more than the like may there be had from other Countries.

5. It is agreed that the Articles commonly inserted in other treaties of Commerce for mutual and reciprocal convenience, shall be inserted in this, and that this treaty and every article and stipulation therein shall continue in full force for \_\_\_\_\_ years to be computed from the day of the date thereof.

These articles need no comment. It is easy to perceive that by them we gain much, and sacrifice or give up nothing. They will not indeed permit our Tobacco to be vended in their Country; but that prohibition now exists, and will probably continue, whether we do or do not make a Treaty with Spain.

It is also certain that by means of the Canaries, our Flour and other Commodities will find the way to Spanish America; and the supply of that Market, even by a circuitous route, cannot fail of affording a very lucrative vent for those Articles.

Mr. Gardoqui is not personally averse to our visiting the Philippines, but his instructions do not reach that point. I have hopes that this may be carried; and in that case it is obvious we shall be the better for the Acapulco trade.

I forbear to dwell minutely on these commercial subjects, because nothing I could say respecting them would be new.

My attention is chiefly fixed on two obstacles, which at present divide us, viz. the Navigation of the Mississippi, and the territorial limits between them and us.

My Letters written from Spain, when our affairs were the least promising, evince my opinion respecting the Mississippi, and oppose every idea of our relinquishing our right to navigate it. I entertain the same sentiments of that right, and of the importance of retaining it, which I then did.

Mr. Gardoqui strongly insists on our relinquishing it. We have had many Conferences and much reasoning on the subject, not necessary now to detail. His concluding answer to all my Arguments has steadily been, that the King will never yield that point, nor consent to any compromise about it; for that it always has been, and continues to be, one of their Maxims of policy, to exclude all Mankind from their American shores.

I have often reminded him that the adjacent Country was filling fast with people; and that the time must and would come, when they would not submit to seeing a fine river flow before their doors without using it as a high way to the sea for the transportation of their productions; that it would therefore be wise to look forward to that event, and take care not to sow in the treaty any seeds of future discord. He said that the

time alluded to was far distant; and that treaties were not to provide for contingencies so remote and future. For his part he considered the rapid settlement of that Country as injurious to the States, and that they would find it necessary to check it. Many fruitless Arguments passed between us; and tho' he would admit that the only way to make treaties and friendship permanent, was for neither party to leave the other any thing to complain of; yet he would still insist, that the Mississippi must be shut against us. The truth is, that Courts never admit the force of any reasoning or Arguments but such as apply in their favor; and it is equally true, that even if our right to that Navigation, or to any thing else, was expressly declared in Holy Writ, we should be able to provide for the enjoyment of it no otherwise than by being in capacity to repel force by force.

Circumstanced as we are, I think it would be expedient to agree that the treaty should be limited to twenty five or thirty years, and that one of the Articles should stipulate that the United States would forbear to use the Navigation of that River below their territories to the Ocean. Thus the duration of the treaty and of the forbearance in question would be limited to the same period.

Whether Mr. Gardoqui would be content with such an Article, I cannot determine, my instructions restraining me from even sounding him respecting it. I nevertheless think the experiment worth trying for several reasons:

1. Because unless that matter can in some way or other be settled, the treaty, however advantageous, will not be concluded.

2. As that Navigation is not *at present* important, nor will probably become much so in less than twenty five or thirty years, a forbearance to use it while we do not *want it*, is no great sacrifice.

3. Spain now excludes us from that Navigation, and with a strong hand holds it against us. She will not yield it peaceably, and therefore we can only acquire it by *War*. Now as we are not prepared for a War with any power; as many of the States would be little inclined to a War with Spain for that object at this day; and as such a War would for those and a variety of obvious reasons be inexpedient, it follows, that Spain will, for a long space of time yet to come, exclude us from that Navigation. Why therefore should we not (for a valuable Consideration too) consent to forbear to use what we know is not in our power to use.

4. If Spain and the United States should part on this point, what are the latter to do? Will it after that be consistent with their dignity to permit Spain forcibly to exclude them from a right, which, at the expense of a beneficial treaty, they have asserted? They will find themselves obliged either to do this, and be humiliated, or they must attack Spain. Are they ripe and prepared for this? I wish I could say they are.

It is possible that such an Article, if agreed to, might lessen one of the arguments urged to enhance the value of Western lands; but would not the Spaniards continuing by force to exclude us from the navigation soon have the same effect? In either case that Argument must lose some of its force; but in the one case America would also lose some of its dignity. It can be no question therefore which of the two cases would be least desirable.

If such a compromise should be attempted, and not succeed, we shall lose nothing by it; for they who take a lease admit the right of the Lessor.



I have some hope that it would succeed, for I suspect Spain would agree, that as we are tempted to this forbearance now by other Articles in the Treaty, the like temptations will again induce us to prolong it; besides, I much doubt whether the Minister extends his views far beyond the limits of his own life or Administration; if he can render that easy and satisfactory, he may perhaps, without much reluctance, leave future disputes to be settled by future Ministers. It is hard to say whether this will or will not be the case. I am for trying the experiment, because it can, in my opinion, do us no injury, and may produce much good.

With respect to territorial limits, it is clear to me that Spain can justly claim nothing East of the Mississippi but what may be comprehended within the bounds of the Floridas. How far those bounds extend, or ought to extend, may prove a question of more difficulty to negotiate than to decide. Pains I think should be taken to conciliate and settle all such matters amicably; and it would be better even to yield a few Acres, than to part in ill humour.

If their demands, when ascertained, should prove too extravagant, and too pertinaciously adhered to, one mode of avoiding a rupture will still be left, viz. referring that dispute to impartial Commissioners. I do not mean by this, that any third sovereign should be called in to mediate or arbitrate about the matter. They make troublesome Arbitrators, and not always the most impartial. I mean private men for Commissioners; and to me there appears little difficulty in finding proper ones; for not being prepared for War, I think it much our interest to avoid placing ourselves in such a situation, as that our forbearing hostilities may expose us to indignities.

It is much to be wished that all these matters had lain dormant for years yet to come; but such wishes are vain; these disputes are agitating; they press themselves upon us, and must terminate in accommodation, or War, or disgrace. The last is the worst that can happen; the second we are unprepared for; and therefore our attention and endeavours should be bent to the first.

Permit me, sir, to make one or two observations more. If the system of Spain respecting us really is what I suppose it to be, then it follows that this is the best season for making a treaty with her that can be expected.

The late War has left her new commercial engagements to make, particularly with Britain, whose attention to Commerce leaves us no room to suppose her indifferent to that with Spain. She is now able and willing to grant us favors; other treaties and other dispositions and views may render her in future both unable and unwilling to do the like.

At a time when other Nations are shewing us no extraordinary marks of respect, the Court of Spain is even courting our friendship by strong marks not merely of polite and friendly attention, but by offering us favors not common for her to hold out or bestow; for I consider the terms she proposes as far more advantageous than any to be found in her Commercial treaties with other Nations.

If after all her endeavours to take us by the hand, we should hold it back, every disposition and passion opposite to kind and friendly ones will undoubtedly influence her future conduct. Disappointed in her views, and mortified by repulse, and that in the sight of Europe, we may easily judge what her feelings would be; nor is it difficult to foresee that those feelings stimulated by the jealousies and apprehensions beforementioned, will nat-

urally precipitate and keep her in a system of politicks, from which the United States cannot expect to derive advantage.

The Mississippi would continue shut; France would tell us our claim to it was ill founded; the Spanish posts on its banks, and even those out of Florida in our Country would be strengthened, and that Nation would there bid us defiance, with impunity, at least until the American Nation shall become more really and truly a Nation than it at present is. For, unblessed with an efficient government, destitute of funds, and without public Credit, either at home or abroad, we should be obliged to wait in patience for better days, or plunge into an unpopular and dangerous War with very little prospect of terminating it by a peace, either advantageous or glorious.

Supposing the Spanish business out of question, yet the situation of the United States appears to me to be seriously delicate, and to call for great circumspection both at home and abroad; nor, in my opinion, will this cease to be the case, until a vigorous National government be formed, and public Credit and confidence established.

These, Sir, are my sentiments on these important subjects; and whether they accord with, or vary from, those which may here prevail, yet I shall always remember that I am to be governed by the instructions, and that it is my duty faithfully to execute the orders of Congress.<sup>1</sup>

<sup>1</sup> The above proceedings are entered only in *Secret Journal, Foreign*, No. 5, by Benjamin Bankson. Jay's speech is in No. 81, II, folio 193. *Committee Book No. 190* notes: "letter 29 May Sec<sup>r</sup> for for<sup>a</sup> Affairs and communications made by him this day. To sit on thursday next. The communications. Com<sup>es</sup> of the Whole. Report Aug. 23."



FRIDAY, AUGUST 4, 1786.

Congress assembled. Present as before.

On a report of the Secretary at War, to whom was referred his letter of the 21 July, together with the proceedings and report of the court of inquiry, held pursuant to the resolution of the 27 March, 1786,

*Resolved*, That the Secretary at War direct Major Wyllys to be released from his arrest.

Congress took up the Ordinance for Indian affairs, for a third reading, when a motion was made by Mr. [William] Houstoun, seconded by Mr. [William] Few, to postpone so much of the Ordinance as relates to the Southern Indians: And on the question to postpone, the yeas and nays being required by Mr. [William] Houstoun,

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	no	}no	Mr. Harrison,	no	}div.
Long,	no		Ramsay,	ay	
<i>Massachusetts,</i>			<i>Virginia,</i>		
Mr. Gorham,	no	}no	Mr. Grayson,	no	}div.
King,	ay		Monroe,	ay	
Sedgwick,	no		Carrington,	ay	
<i>Rhode Island,</i>			Lee,	no	
Mr. Manning,	no	}no	<i>North Carolina,</i>		
Miller,	no		Mr. Bloodworth,	ay	}ay
<i>Connecticut,</i>			White,	ay	
Mr. Johnson,	no	}no	<i>South Carolina,</i>		
Sturges,	no		Mr. Bull,	no	}no
<i>New York,</i>			Pinckney,	no	
Mr. Haring,	ay	}div.	Huger,	no	
Smith,	no		Parker,	no	
<i>New Jersey,</i>			<i>Georgia,</i>		
Mr. Symmes,	ay	}div.	Mr. Houstoun,	ay	}ay
Hornblower,	no		Few,	ay	
<i>Pennsylvania,</i>					
Mr. Pettit,	no	}no			
Bayard,	no				

So the question was lost.

The Committee consisting of Mr. [Charles] Pinckney, Mr. [John Bubenheim] Bayard and Mr. [William Samuel] Johnson to whom was referred a report of Commissioner of army accounts on the memorial of the Reverend Robert Smith, Report:

That it appears the said Robert Smith was appointed in the beginning of the year 1780 chaplain to the Southern hospital by General Lincoln; that he continued in the exercise of the duties of his appointment until May, 1780, the time of the surrender of Charleston to the British Army, at which time he was made a prisoner of war; that he continued in Charleston attending his duty at the hospital for a considerable time after its surrender and until he was ordered to Hadrell's point to remain among the officers of the federal army who were there confined; that he continued there until June, 1781, when he was sent to Philadelphia on parole, in which situation he remained, until the end of the war, in captivity and at a distance from his country and estate, for tho' repeated attempts were made to exchange him it was not in his power ever to obtain it, in consequence of which he was prevented from returning to South Carolina, and paying that attention to his affairs he might otherwise have done had he not been restrained by the terms of his parole.

The Committee also find That Congress on the 2<sup>d</sup> day of June, 1785, directed That those officers of the hospital department who were detained in Charleston after its surrender for the purpose of attending the sick and wounded of the army of the United States shall in consideration of the extra expences they incurred by performance of said duty, be allowed the sums affixed to their respective names contained in a return deposited in the war office and signed "David Oliphant deputy director general of the Southern hospital."

It appears that the memorialist did remain in Charleston and from a certificate of the said David Oliphant that he performed the duty of a chaplain to the hospital until the middle of April, 1781 (eleven months and a half), and that his name was omitted by mistake on the payroll of hospital officers entitled to extra expences and sent to the secretary at war dated August 10, 1783, as above stated and that the allowance he is entitled to under the above resolution is at the rate of thirty dollars per month.

The Commissioner farther reports that notwithstanding the resolutions of the 9<sup>th</sup> November, 1780, and January 17, 1781, the memorialist has been considered as entitled to pay, in consequence of his being a prisoner.

On this state of facts the Committee begs leave to remark That as the memorialist was a prisoner at the time of the new arrangement of the hospital and continued in consequence of his commission in the federal army in a disagreeable state of captivity during the war, they do not conceive that the said arrangement ought to be considered as extending to him, but are of opinion that he is clearly entitled to his commutation.

As it appears from the certificate of the deputy director general that he was in Charleston and officiated at the hospital during the time above mentioned, but that his name was omitted by mistake in the list transmitted to the Secretary at War the Committee think there can be no doubt he is entitled to the sum allowed the hospital officers in consideration of their extra expences under the resolution of 2<sup>d</sup> June, 1785,

Whereupon they submit to Congress the following resolutions—

*Resolved*, That the Commissioner for settling the accounts of the army be and he is hereby directed to issue to the Reverend Robert Smith a certificate for his commutation for half pay in the same manner it has been issued to the other officers of the federal army

*Resolved*, \* \* \* <sup>1</sup>

[OFFICE OF SECRETARY OF CONGRESS]

August 3, 1786.

On the petition of Ebenezer Cole stating that he was possessed of a certificate issued from the loan office of Rhode Island Nov<sup>r</sup>, 1779, N. 510, for 1,000 dollars, which certificate is not to be found though the petitioner hath searched every place where he could have the least expectation of finding it and has advertized it in the public

<sup>1</sup> This report, in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 19, V, folio 367. According to indorsement it was read August 4 The omitted resolve was passed September 12, 1786, and is there spread *verbatim* on the Journal.

papers to no effect, and praying Congress to order him a duplicate to be as good and valid as the Original.

The Secretary of Congress reports That the petition of Ebenezer Cole be referred to the board of treasury to report.<sup>1</sup>

MONDAY, AUGUST 7, 1786.

Congress assembled. Present as before.

On a report of the Secretary at War, enclosing the resignation of Major Fish,

*Resolved*, That the resignation of Major Fish be accepted.<sup>2</sup>

Congress resumed the consideration of the Ordinance on Indian affairs, and a motion being made by Mr. [Edward] Carrington, seconded by Mr. [William] Few, to amend the said Ordinance by adding,

“And be it further Ordained, that in all cases where transactions with any nation or tribe of Indians, shall become necessary to the purposes of this Ordinance, which cannot be done without interfering with the legislative rights of a state, the Superintendent in whose

<sup>1</sup> This report is entered by Thomson in the *Reports of the Secretary of Congress*, No. 180.

Also, according to indorsement, on the letter from Thomas Jefferson, of May 27, 1786, forwarded to Congress by the Secretary for Foreign Affairs. (No. 87, I, folio 478): “The injunction of Secresy taken off from this letter of May 27 from Mr. Jefferson and the papers accompanying it as far as relates to the tobacco Contract. Cha<sup>s</sup> Thomson Sec<sup>y</sup>.” See *ante*, August 2.

AUGUST 4: The Board of Treasury was directed to take Order on “Their letter of 3 Aug., 1786, respect<sup>s</sup> the settlement of acco<sup>ts</sup> in Marine department.”

The “Petition of E. Cole for renewal of a loan Office certificate which he says he has lost” was referred to the Board of Treasury to report.

Also the name of John de Neufville was withdrawn from nomination as Commissioner to examine into the administration of the late Superintendent of Finance. See *ante*, February 1.

*Committee Book No. 190.*

Also, according to indorsement, was read a letter of August 2 from Richard Butler, on the settlement of the accounts of the Indian Commissioners of the Northern and Middle Departments. It is in No. 56, folio 189.

<sup>2</sup> This letter from the Secretary of War is dated August 3. It is in the *Papers of the Continental Congress*, No. 150, I, folio 479, and is indorsed as agreed to August 7. Fish’s resignation is on folio 475.

district the same shall happen, shall act in conjunction with the Authority of such State.<sup>1</sup>

On the question to agree to this amendment, the yeas and nays being required by Mr. [William] Few,

<i>New Hampshire,</i>			<i>Pennsylvania,</i>		
Mr. Livermore,	ay	} ay	Mr. Pettit,	ay	} ay
Long,	ay		Bayard,	ay	
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Gorham,	no	} no	Mr. Henry,	ay	} ay
King,	no		Hindman,	ay	
Sedgwick,	no		Harrison,	ay	
<i>Rhode Island,</i>			Ramsay,	ay	
Mr. Manning,	ay	} div.	<i>Virginia,</i>		
Miller,	no		Mr. Monroe,	ay	} ay
<i>Connecticut,</i>			Carrington,	ay	
Mr. Johnson,	no	} no	Lee,	ay	
Sturges,	no		<i>North Carolina,</i>		
<i>New York,</i>			Mr. Bloodworth,	ay	} ay
Mr. Haring,	ay	} ay	White,	ay	
Smith,	ay		<i>South Carolina,</i>		
<i>New Jersey,</i>			Mr. Bull,	ay	} ay
Mr. Cadwallader,	ay	} ay	Pinckney,	ay	
Symmes,	ay		Huger,	ay	
Hornblower,	no		<i>Georgia,</i>		
			Mr. Houstoun,	ay	} ay
			Few,	ay	

So it was resolved in the affirmative.

<sup>1</sup> This motion, in the writing of Edward Carrington, is in the *Papers of the Continental Congress*, No. 46, folio 468.



The Ordinance being amended and read a third time; on the question, shall this Ordinance pass? the yeas and nays being required by Mr. [Charles] Pinckney,

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	ay	} ay	Mr. Henry,	ay	} ay
Long,	ay		Hindman,	ay	
<i>Massachusetts,</i>			Harrison,	ay	
Mr. Gorham,	no	} no	Ramsay,	ay	
King,	no		<i>Virginia,</i>		
Sedgwick,	no		Mr. Grayson,	ay	} ay
<i>Rhode Island,</i>		Monroe,	ay		
Mr. Manning,	ay	Carrington,	ay		
Miller,	no		Lee,	ay	
<i>Connecticut,</i>			<i>North Carolina,</i>		
Mr. Johnson,	ay	} ay	Mr. Bloodworth,	ay	} ay
Sturges,	ay		White,	ay	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Haring,	no	} no	Mr. Bull,	ay	} ay
Smith,	no		Pinckney,	ay	
<i>New Jersey,</i>			Huger,	ay	
Mr. Cadwallader,	ay	} ay	<i>Georgia,</i>		
Symmes,	ay		Mr. Houstoun,	ay	} ay
Hornblower,	ay		Few,	ay	
<i>Pennsylvania,</i>					
Mr. Pettit,	ay	} ay			
Bayard,	ay				

So it passed as follows:

AN ORDINANCE FOR THE REGULATION OF INDIAN AFFAIRS.

Whereas the safety and tranquillity of the frontiers of the United States, do in some measure, depend on the maintaining a good correspondence between their citizens and the several nations of Indians in Amity with them: And whereas the United States in Congress assembled, under the 9th of the Articles of Confederation and perpetual Union, have the sole and exclusive right and power of regulating the trade, and managing all affairs with the Indians not members of any of the states; provided that the legislative right of any state within its own limits be not infringed or violated.

*Be it ordained, by the United States in Congress assembled,* That from and after the passing of this Ordinance, the Indian department be divided into two districts, viz. The *Southern*, which shall comprehend within its limits, all the Nations in the territory of the United States, who reside southward of the river Ohio; and the *Northern*, which shall comprehend all the other Indian Nations within the said territory, and westward of Hudson river: Provided that all councils, treaties, communications and official transactions, between the Superintendent hereafter mentioned for the northern district, and the Indian Nations, be held, transacted and done, at the Outpost occupied by the troops of the United States, in the said district. That a Superintendent be appointed <sup>1</sup> for each of the said districts, who shall continue in office for two Years, unless sooner removed by Congress, and shall reside within or as near the district for which he shall be so appointed, as may be convenient for the management of its concerns. The said superintendants shall attend to the execution of such regulations, as Congress shall, from time to time, establish respecting Indian Affairs. The superintendent for the northern district, shall have authority to appoint two deputies, to reside in such places as shall best facilitate the regulations of the Indian trade, and to remove them for misbehaviour. There shall be communications of all matters relative to the business of the Indian department, kept up between the said superintendants, who shall regularly correspond with the Secretary at War, through whom all communications respecting the Indian department, shall be made to Congress; and the superintendants are hereby directed to obey all instructions, which they shall, from time to time, receive from the said Secretary at War. And whenever they shall have reason to suspect any tribe or tribes of Indians, of hostile intentions, they shall communicate the same to the executive of the State or States, whose territories are subject to the effect of such hostilities. All stores, provisions or other property, which Congress may think necessary for presents to the Indians, shall be in the custody and under the care of the said superintendants, who shall render an annual account of the expenditures of the same, to the board of treasury.

*And be it further ordained,* That none but citizens of the United States, shall be suffered to reside among the Indian nations, or be allowed to trade with any nation of Indians, within the territory of

<sup>1</sup> At this point Roger Alden takes up the entry.

the United States. That no person, citizen or other, under the penalty of five hundred dollars, shall reside among or trade with any Indian or Indian nation, within the territory of the United States, without a license for that purpose first obtained from the Superintendent of the district, or one of the deputies, who are hereby directed to give such license to every person, who shall produce from the supreme executive of any state, a certificate under the seal of the state, that he is of good character and suitably qualified, and provided for that employment, for which license he shall pay the sum of fifty dollars, to the said superintendent for the use of the United States. That no license to trade with the Indians shall be in force for a longer term than one year; nor shall permits or passports be granted to any other persons than citizens of the United States to travel through the Indians nations, without their having previously made their business known to the superintendent of the district, and received his special approbation. That previous to any person or persons obtaining a license to trade as aforesaid, he or they shall give bond in three thousand dollars to the superintendent of the district, for the use of the United States, for his or their strict adherence to, and observance of such rules and regulations as Congress may, from time to time, establish for the government of the Indian trade. All sums to be received by the said Superintendants, either for licenses or fines, shall be annually accounted for by them with the board of treasury.

*And be it further ordained,* That the said superintendants, and the deputies, shall not be engaged, either directly or indirectly, in trade with the Indians, on pain of forfeiting their Offices, and each of the superintendants shall take the following oath, previous to his entering on the duties of his appointment: "I, A. B. do swear, that I will well and faithfully serve the United States in the office of superintendent of Indian affairs, for the            district: That I will carefully attend to all such orders and instructions as I shall, from time to time, receive from the United States in Congress assembled, or the Secretary at War: That I will not be concerned, either directly or indirectly, in trade with the Indians, and that in all things belonging to my said office, during my continuance therein, I will faithfully, justly and truly, according to the best of my skill and Judgment, do equal and impartial Justice, without fraud, favor or affection." And the superintendent for the northern district, shall administer to his depu-



ties, the following oath, before they proceed on the duties of their office: "I, A. B. do swear, that I will well and faithfully serve the United States, in the office of deputy superintendant of Indian Affairs in the northern district, that I will carefully attend to all such orders and instructions as I shall, from time to time, receive from the United States in Congress assembled, the Secretary at War, or the Superintendant of the district aforesaid, and that in all things belonging to my said office, during my continuance therein, I will faithfully, justly and truly, according to the best of my skill and Judgment, do equal and impartial Justice, without fraud, favor or affection." And the said Superintendants and deputy superintendants, shall each of them give bond with surety to the board of treasury, in trust for the United States; the superintendants each in the sum of six thousand dollars, and the deputy superintendants each in the sum of three thousand dollars, for the faithful discharge of the duties of their office.

*And be it further ordained,* That all fines and forfeitures which may be incurred by contravening this ordinance, shall be sued for and recovered before any court of record within the United States, the one moiety thereof to the use of him or them who may prosecute therefor, and the other moiety to the use of the United States. And the said Superintendants shall have power, and hereby are authorized, by force to restrain therefrom, all persons who shall attempt an intercourse with the said Indians without a license therefor, obtained as aforesaid.

*And be it further ordained,* That in all cases where transactions with any nation or tribe of Indians shall become necessary to the purposes of this ordinance, which cannot be done without interfering with the legislative rights of a State, the Superintendant in whose district the same shall happen, shall act in conjunction with the authority of such State.<sup>1</sup>

<sup>2</sup> Done by the United States in Congress assembled, this 7 day of August, A. D. 1786, &c.

The Commissioner for settling the accounts of the late army, to whom was referred a petition of John Stevens, late a captain in the Connecticut line, having reported thereon;

<sup>1</sup> This paragraph exists in the writing of Theodore Sedgwick, in No. 56, folio 468. It appears to have been submitted as a motion and duly incorporated in the Ordinance.

<sup>2</sup> At this point Charles Thomson resumes the entries.

On motion of Mr. [William Samuel] Johnson, seconded by Mr. [Pierse] Long,

*Resolved*, That it be, and is hereby recommended to the state of Connecticut, to settle the claims of captain John Stevens, for pay and depreciation, as a captain of a company in the Connecticut line of the Army, agreeably to the Act of Congress of the 25 May, 1781.<sup>1</sup>

The Committee consisting of M<sup>r</sup> [Edward] Carrington, M<sup>r</sup> [John Cleves] Symmes and M<sup>r</sup> [Nathan] Dane, to whom was referred the Petition of Robert Patton, door keeper, report as follows viz<sup>t</sup>

It appears to your Com. that from about the Middle of June, 1783, to the Middle of January, 1785, being 19 months, there was no person employed as a Messenger of Congress, and that during that period the said Robert Patton did the business of that character as an extra-duty. It also appears to Your Com. that within the above period the several removals of Congress must have subjected the Petitioner to much more expence than he otherwise would have been at: It is therefore their opinion that in consideration of all the premises he ought to be allowed during the said 19 Months half the pay of a Messenger, whereupon the following Resolution is submitted Viz<sup>t</sup>.<sup>2</sup>

The Grand Committee consisting of M<sup>r</sup> [Samuel] Livermore, M<sup>r</sup> [Nathan] Dane, M<sup>r</sup> [James] Manning, M<sup>r</sup> [William Samuel] Johnson, M<sup>r</sup> [Melancton] Smith, M<sup>r</sup> [John Cleves] Symmes, M<sup>r</sup> [Charles] Pettit, M<sup>r</sup> [William] Henry, M<sup>r</sup> [Henry] Lee, M<sup>r</sup> [Timothy] Bloodworth, M<sup>r</sup> [Charles] Pinckney and M<sup>r</sup> [William] Houstoun appointed to report such amendments to the confederation, and such resolutions as it may be necessary to recommend to the several states for the purpose of obtaining from them such powers as will render the federal government adequate to the ends for which it was instituted.

Beg leave to submit the following Report to the consideration of Congress:

*Resolved*, That it be recommended to the Legislatures of the several States to adopt the following Articles as Articles of the Confederation,

<sup>1</sup> This motion, in the writing of William Samuel Johnson, is in the *Papers of the Continental Congress*, No. 19, V, folio 411.

<sup>2</sup> This report, in the writing of Edward Carrington, is in the *Papers of the Continental Congress*, No. 19, V, folio 53. According to indorsement it was read August 7. The submitted resolve was passed September 7, where it is spread verbatim on the Journal.

and to authorise their Delegates in Congress to sign and ratify the same severally as they shall be adopted, to wit:

ART. 14. The United States in Congress Assembled shall have the sole and exclusive power of regulating the trade of the States as well with foreign Nations as with each other and of laying such prohibitions and such Imposts and duties upon imports and exports as may be Necessary for the purpose; provided the Citizens of the States shall in no instance be subjected to pay higher duties and Imposts than those imposed on the subjects of foreign powers, provided also, that all such duties as may be imposed shall be collected under such regulations as the united States in Congress Assembled shall establish consistent with the Constitutions of the States Respectively and to accrue to the use of the State in which the same shall be payable; provided also, that the Legislative power of the several States shall not be restrained from laying embargoes in time of Scarcity and provided lastly that every Act of Congress for the above purpose shall have the assent of Nine States in Congress Assembled, and in that proportion when there shall be more than thirteen in the Union.

ART. 15. That the respective States may be induced to perform the several duties mutually and solemnly agreed to be performed by their federal Compact, and to prevent unreasonable delays in any State in furnishing her just proportion of the common Charges of the Union when called upon, and those essential evils which have heretofore often arisen to the Confederacy from such delays, it is agreed that whenever a requisition shall be made by Congress upon the several States on the principles of the Confederation for their quotas of the common charges or land forces of the Union Congress shall fix the proper periods when the States shall pass Legislative Acts complying therewith and give full and compleat effect to the same and if any State shall neglect, seasonably to pass such Acts such State shall be charged with an additional sum to her quota called for from the time she may be required to pay or furnish the same, which additional sum or charge shall be at the rate of ten per Cent pr. annum on her said Quota, and if the requisition shall be for Land forces, and any State shall neglect to furnish her quota in time the average expence of such quota shall be ascertained by Congress, and such State shall be charged therewith, or with the average expence of what she may be deficient and in addition thereto from the time her forces were required to be ready to act in the field with a farther sum which sum

shall be at the rate of twelve per Cent per Annum on the amount of such expences.

ART. 16. And that the resources of any State which may be negligent in furnishing her just proportion of the Common expence of the Union may in a reasonable time be applied, it is further agreed that if any State shall so Neglect as aforesaid to pass laws in compliance with the said Requisition and to adopt measures to give the same full effect for the space of Ten months, and it shall then or afterwards be found that a Majority of the States have passed such laws and adopted such measures the United States in Congress Assembled shall have full power and authority to levy, assess, and collect all sums and duties with which any such state so neglecting to comply with the requisition may stand charged on the same by the Laws and Rules by which the last State tax next preceeding such requisition in such State was levied, assessed and Collected, to apportion the sum so required on the Towns or Counties in such State to order the sums so apportioned to be assessed by the assessors of such last State tax and the said assessments to be committed to the Collector of the same last State tax to collect and to make returns of such assessments and Commitments to the Treasurer of the United States who by himself or his deputy, when directed by Congress shall have power to recover the monies of such Collectors for the use of the United States in the same manner and under the same penalties as State taxes are recovered and collected by the Treasurers of the respective States and the several Towns or Counties respectively shall be responsible for the conduct of said Assessors and Collectors and in case there shall be any vacancy in any of said Offices of Assessors or Collectors by death, removal, refusal to serve, resignation or otherwise, then other fit persons shall be chosen to fill such Vacancies in the usual manner in such Town or County within Twenty days after Notice of the assessment, and in case any Towns or Counties, any assessor, Collectors or Sheriffs shall Neglect or refuse to do their duty Congress shall have the same rights and powers to compel them that the State may have in assessing and collecting State Taxes.

And if any state by any Legislative Act shall prevent or delay the due Collection of said sums as aforesaid, Congress shall have full power and authority to appoint assessors and Collectors thereof and Sheriffs to enforce the Collections under the warrants of distress issued by the Treasurer of the United States, and if any further opposition shall be made to such Collections by the State or the Citizens thereof,



and their conduct not disapproved of by the State, such conduct on the part of the State shall be considered as an open Violation of the federal compact.

ART. 17. And any State which from time to time shall be found in her payments on any Requisition in advance on an average of the payments made by the State shall be allowed an interest of ~~six~~ — per Cent *pr. annum* on her said advanced sums or expences and the State which from time to time shall be found in arrear on the principles aforesaid shall be charged with an Interest of ~~six~~ — per Cent *pr. annum* on the sums in which she may be so in arrear.

ART. 18. In case it shall hereafter be found Necessary by Congress to establish any new Systems of Revenue and to make any new regulations in the finances of the U. S. for a limited term not exceeding fifteen years in their operation for supplying the common Treasury with monies for defraying all charges of war, and all other expences that shall be incurred for the common defence or general welfare, and such new Systems or regulations shall be agreed to and adopted by the United States in Congress Assembled and afterwards be confirmed by the Legislatures of eleven States and in that proportion when there shall be more than thirteen States in the Union, the same shall become binding on all the States, as fully as if the Legislatures of all the States should confirm the same.

ART. 19. The United States in Congress Assembled shall have the sole and exclusive power of declaring what offences against the United States shall be deemed treason, and what Offences against the same Mis-prison of treason, and what Offences shall be deemed piracy or felony on the high Seas and to annex suitable punishments to all the Offences aforesaid respectively, and power to institute a federal Judicial Court for trying and punishing all officers appointed by Congress for all crimes, offences, and misbehaviour in their Offices and to which Court an Appeal shall be allowed from the Judicial Courts of the several States in all Causes wherein questions shall arise on the meaning and construction of Treaties entered into by the United States with any foreign power, or on the Law of Nations, or wherein any question shall arise respecting any regulations that may hereafter be made by Congress relative to trade and Commerce, or the Collection of federal Revenues pursuant to powers that shall be vested in that body or wherein questions of importance may arise and the United States shall be a party—provided that the trial of the fact by Jury shall ever be held sacred, and also the benefits of

the writ of *Habeas Corpus*; provided also that no member of Congress or officer holding any other office under the United States shall be a Judge of said Court, and the said Court shall consist of Seven Judges, to be appointed from the different parts of the Union to wit, one from New Hampshire, Rhode Island, and Connecticut, one from Massachusetts, one from New York and New Jersey, one from Pennsylvania, one from Delaware and Maryland, one from Virginia, and one from North Carolina, South Carolina and Georgia, and four of whom shall be a quorum to do business.

ART. 20. That due attention may be given to the affairs of the Union early in the federal year, and the sessions of Congress made as short as conveniently may be each State shall elect her Delegates annually before the first of July and make it their duty to give an Answer before the first of September in every year, whether they accept their appointments or not, and make effectual provision for filling the places of those who may decline, before the first of October yearly, and to transmit to Congress by the tenth of the same month, the names of the Delegates who shall be appointed and accept their appointments, and it shall be the indispensable duty of Delegates to make a representation of their State in Congress on the first Monday in November annually, and if any Delegate or Delegates, when required by Congress to attend so far as may be Necessary to keep up a Representation of each State in Congress, or having taken his or their Seat, shall with-draw without leave of Congress, unless recalled by the State, he or they shall be proceeded against as Congress shall direct, provided no punishment shall be further extended than to disqualifications any longer to be members of Congress, or to hold any Office of trust or profit under the United States or any individual State, and the several States shall adopt regulations effectual to the attainment of the ends of this Article.<sup>1</sup>

The Board of Treasury to whom was Referred the Petitions of William W. Morris and John Hayden relative to sundry Certificates, alledged to have been lost or destroyed, Beg leave to Report:

That in consequence of the various Applications which have been from time to time been made to Congress for the Renewal of the

<sup>1</sup> This report, the preamble in the writing of Charles Pinckney and the rest in the writing of Henry Remsen Jr., is in the *Papers of the Continental Congress*, No. 24, folio 179. According to indorsement it was read August 7 and Monday the 14<sup>th</sup> assigned.

Securities of the United States made payable to Bearer, they have turned their attention to the General Question how far it is proper to direct the Renewal of such Securities.

They do not find on enquiry, that it is consistent with the practice of any Government or Public Establishment, who issue Certificates of Debts payable to Bearer, to renew the same in case of total loss, or destruction of the Paper so issued.

That this uniform practice, it must be presumed has arisen from the impracticability of Guarding against the numerous impositions which would inevitably ensue from a contrary line of conduct.

That although Congress by their Resolves of the 10<sup>th</sup> May, 1780, relative to the Renewal of Loan Office Certificates, direct that Bonds of Indemnification should be given with two or more Sureties, to double the amount of the value of the Certificates claimed to be renewed: Yet it is to be observed, that the Obligation on the part of the Public to pay the Principal and Interest of the Original Certificates (if ever produced) is certain: whilst the chance of Recovery may depend on the Issue of a Process at Law, and the ultimate sufficiency of the Parties or their legal Representatives, who have entered into the Bonds of Indemnification.

That exclusive of these Objections the precaution above-mentioned is not, in the Opinion of this Board a sufficient reason for deviating in this respect from a rule of conduct which has been so long and generally Established and acquiesced in.

In all Commercial Countries, Notes payable to Bearer, have been considered in the nature of Money: because they enter into the general Mass of Circulation. The possession of the Note is the only Evidence of Right; and when that is interrupted, the Right of the former possessor ceases. It is true that instances are not wanting where public, and private Notes, payable to Bearer, have been renewed where fragments of the Original have been produced sufficient to prove the Title to Payment. But we think we may with safety declare, that on the Alligation of total loss or destruction (without such material fragments of the Original being produced) no precedent of Renewal of such Evidences of a Public Debt existed previous to the Resolves of Congress of the 10<sup>th</sup> May, 1780.

The Board are sensible that as in the instances submitted to their consideration, so in many other cases, an injury will often arise to Individuals from the loss of Certificates, but it is by Gen<sup>l</sup> Principles



only that Public Bodies can with safety Act, in all matters where a deviation will not only expose the Government to the risque of loss, but encourage in the Community a disposition to commit fraud; besides, these private losses will be less frequent, if the custom established in other Countries with respect to Paper payable to Bearer, was adopted in this, and generally promulgated.

It may further not be improper to observe, that the various Evidences of Public Debt payable to Bearer, have not only opened a door to numerous frauds, by facilitating the means of Counterfeiting the same: but have rendered the operation of the payment of the Interest far more expensive and complicated than it, otherwise would be: Whatever therefore has a tendency to induce Individuals to Register the various Public Securities of which they are possess, agreeably to the established forms of the Treasury, ought in the Opinion of this Board to be considered and encouraged. The security of such Certificates in case of loss, when compared with those made payable to Bearer, would probably have no small effect in facilitating this object.

It is with great deference to the Judgement of Congress, who by their Resolve of the 10<sup>th</sup> May, 1780, have so far as it respects Loan Office Certificates, adopted a different mode of practice, that these opinions are Submitted. If they are well founded, it follows, that no distinction can with propriety be made betwixt the renewal of Loan Office Certificates, and that of other Notes, which are made payable to Bearer. From these considerations, they beg leave to submit the following Resolves:

*Resolved*, That no Certificate issued under the Authority of the United States, and made payable to Bearer be hereafter Renewable, unless material Fragments of the same be produced descriptive of the Original Certificate: and that in all cases where the Claim to Renewal is admitted, a Certificate signed by the Register of the Treasury be issued in lieu of the Original.

*Resolved*, That Certificates transferable only at the Treasury of the United States, may in case of Loss or Destruction be renewed under such Limitations and Restrictions as the Commissioners of the Treasury of the United States may judge proper to Establish.

*Resolved*, That the Resolutions of Congress of the 10<sup>th</sup> May and July 18, 1780, relative to the Renewal of Loan Office Certificates be and they are hereby Repealed.

All which is humbly submitted.<sup>1</sup>

August 5<sup>th</sup>, 1786.

saving always to those who shall have made application for renewal of certificates, destroyed previous to the first day of March next all the rights they now have under the resolutions now repealed.

OFFICE FOR FOREIGN AFFAIRS,

Aug<sup>t</sup>. 5<sup>th</sup>, 1786.

The Secretary of the United States for the Department of foreign Affairs to whom was Referred a Letter of 20<sup>th</sup> July, 1786, from the President of New Hampshire to his Excellency the President of Congress, Reports;

That on attentively considering the facts stated in these papers, it is not clear to him that Congress should interfere. He thinks however it might be well to direct Copies of them to be sent to the Honorable M<sup>r</sup> Adams, with instructions to take such Measures on the subject, and to afford the Claimants such Aid, as Circumstances, and further information may render proper and adviseable.

All which is submitted to the Wisdom of Congress.

JOHN JAY.<sup>2</sup>

The Comm<sup>ee</sup> consisting &c. [of Mr. William Grayson, Mr. Rufus King and Mr. William Few, on forming a new *Contract* for carrying of the mail] report:

That the postmaster general be instructed under the direction of the board of treasury to enter into contracts with good and sufficient security for the conveyance of the different mails by the stage carriages from Portsmouth in N. Hamshire to the town of ~~Augusta~~ Savanah in the State of Georgia.

<sup>1</sup> This report, signed by Samuel Osgood, Walter Livingston, and Arthur Lee, is in the *Papers of the Continental Congress*, No. 138, II, folio 181. The added paragraph is in the writing of Arthur Lee and the report is indorsed by Roger Alden calling attention to a report of August 9 on the same subject. It is undated as to action by Congress but seems to belong to this or an approximate date.

<sup>2</sup> This report is in the *Papers of the Continental Congress*, No. 81, II, folio 133. See *ante*, July 28 and *post*, August 8.

That the said Post M<sup>r</sup> Genl. do make arrangements for y<sup>e</sup> transportation of the Mail to and from the following places, at such stated periods as he shall judge necessary.

From Portsmouth in N. Hamshire to Pownalborough in the State of Massachusetts by the rout of Wells and ~~New Gloucester~~ Portland.

From Boston in the said State of Massachusetts to the town of Concord in N. Hamshire, and from thence through Exeter to Portsmouth from Springfield in the State of Massachusetts to Albany in the State of N. York.

From the City of N. York to the City of Albany in the State of N. York and from N. York to Danbury in the State of Connecticut and from thence to Hartford in said State by the most convenient rout.

From the town of Baltimore to the city of Annapolis in the State of Maryland and from the City of Philadelphia to the Town of Vienna in the State of Maryland.

From the town of Alexandria in the State of Virginia to the town of Pittsburgh in the State of Pennsylvania by the rout of Leesburgh and Winchester, Fort Cumberland, and Bedford.

From Philadelphia to Bedford.

From the town of Wilmington to Fayetteville in the State of N<sup>o</sup> Carolina, by the rout of Elizabeth Town.

From Fayetteville in North Carolina to Cambden in South Carolina and from thence to Charles Town in the same State and from Cambden by the rout of Columbia to Augusta in Georgia.

That the contracts commence on the first day of January and remain in force for twelve months thence next ensuing.<sup>1</sup>

<sup>1</sup> This report, in the writing of William Grayson and an unknown, is in the *Papers of the Continental Congress*, No. 61, folio 555. According to indorsement it was: "Ent<sup>d</sup> Aug. 4, 1786, read Aug. 7, 1786."

AUGUST 7: Mr. [Melancton] Smith was appointed in place of Mr. [Nathan] Dane, to the Committee of March 27, to which was recommitted, July 13, the report on the temporary government for the Western Territory. See *post*, August 23.

*Committee Book, No. 190.*

Also was read a report from the Secretary for Foreign Affairs on John O'Donnell's letter of June 20, on the Asiatic trade. It is in No. 81, II, folio 137, and is indorsed that O'Donnell's letter was returned to the Office of Foreign Affairs November 12, 1787.

TUESDAY, AUGUST 8, 1786.

Congress assembled. Present, as before.

On a report of the board of treasury, to whom was referred a letter of the 13 October, 1785, from the Secretary for foreign Affairs, transmitting a letter from Don Diego de Gardoqui,

*Resolved*, That the board of treasury take order for paying whatever balance shall appear due from the Navy board of the Eastern department, to Joseph Gardoqui & Sons, of Bilboa, on a certificate from the commissioner of the marine department, ascertaining the same; and that the navy be charged with the amount.

On motion of Mr. [Charles] Pinckney, seconded by Mr. [Henry] Lee,

*Resolved*, That the Salary of the Superintendent of Indian affairs for the Northern district, be one thousand dollars; and of the deputies of the said district, five hundred dollars each, per annum; and that the salary of the Superintendent for the Southern district, be one thousand dollars per annum.<sup>1</sup>

*Ordered*, That Monday next be assigned for the election of a Superintendent for the Northern district.

On a report of the Board of treasury,

*Resolved*, That the standard of the United States of America, for Gold and Silver, shall be eleven parts fine and one part alloy.

That the money Unit of the United States, being by the resolve of Congress of the 6th July, 1785, a dollar shall contain of fine silver, three hundred and seventy-five grains and sixty-four hundredths of a grain.

That the Money of Account, to correspond with the division of coins, agreeably to the above resolve, proceed in a decimal ratio, agreeably to the forms and manner following, viz.

<i>Mills</i> : The lowest money of account, of which one thousand shall be equal to the federal dollar, or money unit.....	0. 001
<i>Cents</i> : The highest copper piece, of which one hundred shall be equal to the dollar.....	0. 010

<sup>1</sup> This motion, in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 30, folio 299.

*Dimes:* The lowest silver coin, ten of which shall be equal to  
the dollar ..... 0. 100

*Dollar:* The highest silver coin ..... 1. 000

That betwixt the dollar and the lowest copper coin, as fixed by the resolve of Congress of the 6 July, 1785, there shall be three silver coins, and one copper coin.

That the silver coins shall be as follows: One coin containing one hundred and eighty-seven grains and eighty-two hundredths of a grain of fine silver, to be called *A half dollar*: One coin containing seventy-five grains and one hundred and twenty-eight thousandths of a grain of fine silver, to be called *A double dime*: And one coin containing thirty-seven grains and five hundred and sixty thousandths of a grain of fine silver, to be called *A Dime*.

That the two copper coins shall be as follows: One equal to the one hundredth part of the federal dollar, to be called *a cent*: And one equal to the two-hundredth part of the federal dollar to be called *A half cent*.

That two pounds and a quarter avoirdupois weight of copper, shall constitute one hundred cents.

That there shall be two gold coins: One containing two hundred and forty-six grains and two hundred and sixty-eight thousandths of a grain of fine gold, equal to ten dollars, to be stamped with the impression of the American Eagle, and to be called *An Eagle*: One containing one hundred and twenty-three grains and one hundred and thirty-four thousandths of a grain of fine gold, equal to five dollars, to be stamped in like manner, and to be called *A half Eagle*.

That the mint price of a pound troy weight of uncoined silver, eleven parts fine and one part alloy, shall be nine dollars, nine dimes and two cents.

That the mint price of a pound troy weight of uncoined gold, eleven parts fine and one part alloy, shall be two hundred and nine dollars, seven dimes and seven cents.

*Ordered,* That the board of treasury report a draft of an Ordinance for the establishment of a mint.

On a report of a committee, consisting of Mr. [Henry] Lee, Mr. [Charles] Pettit, and Mr. [Edward] Carrington,

*Resolved,* That a monument be erected to the memory of Nathaniel Greene, esquire at the Seat of the federal government, with the following Inscription:

Sacred to the Memory of Nathaniel Greene, Esq: a native of the State of Rhode Island, who died on the 19th of June, 1786, late Major general in the service of the United States, and commander of their army in the Southern department.

The United States in Congress Assembled, in honor of his patriotism, valour and ability, have erected this Monument.



*Resolved*, That the board of treasury take Order for the due execution of the foregoing resolution.

The Board of Treasury to whom was Referred a Petition of Return Jonathan Meigs, praying for an Allowance of Interest on the sum ordered to be paid to him by the Resolve of Congress of the 28<sup>th</sup> September last, Beg leave to Report:

That it is the Established Rule in adjusting Accounts at the Treasury of the United States to Allow on all Sums due to Individuals for Monies by them advanced, or Services done, an Interest of Six per Cent per Annum, from the time the same became due.

That the Sum of Two hundred Dollars ordered to be paid by the Resolve of Congress of the 28<sup>th</sup> September last to Return Jonathan Meigs, and the legal Representatives of Christopher Greene deceased, appears to have been for Monies by them expended for the relief of their unfortunate fellow Prisoners at Quebec in the Year 1776.

The Board for these Considerations, submit to the consideration of Congress the following Resolve:

That there be allowed to Return Jonathan Meigs, and the legal Representatives of Christopher Greene the usual Interest on the sum of Two hundred Dollars by them advanced for the relief of their fellow Prisoners at Quebec in the Year 1776, to be computed from the date of the Advance.

All which is humbly submitted,<sup>1</sup>

August 7<sup>th</sup>, 1786.

<sup>1</sup> This report, signed by Samuel Osgood, Walter Livingston, and Arthur Lee, is in the *Papers of the Continental Congress*, No. 138, II, folio 137. According to indorsement it was read August 8.

AUGUST 8: The following committees were appointed: Mr. [William Samuel] Johnson, Mr. [John Cleves] Symmes and Mr. [James] Manning, on a "Letter 1 Aug. Rev<sup>d</sup> J. Ettwein and 3 July, Col. Harmar respect<sup>s</sup> the return of Moravian Indians." A report was rendered August 17.

Mr. [William] Grayson, Mr. [Charles] Pinckney, Mr. [Melancton] Smith, Mr. [Josiah] Hornblower and Mr. [Samuel] Livermore, on the "Report of Com<sup>rs</sup> on Algerines. 9 Aug. A Motion of Mr. [Nathan] Miller." See *post*, September 11.

The "Petition of Ja<sup>s</sup> Burnside, Doyl Sweeney and Robert Underwood clerks for pay from 16 April to 16 May, 1786," was referred to the Board of Treasury to report and a report rendered August 22. The petition is in No. 42, I, folio 397 and, according to indorsement, was read August 8 and acted on October 12.

Also Mr. [Theodore] Sedgwick was this day added in place of Mr. [Nathan] Dane to the committee of July 27 to draft an ordinance to carry into effect the impost of April 18, 1783. See *post*, August 9 and October 16.

WEDNESDAY, AUGUST 9, 1786.

Congress assembled. Present, as before.

On a report of the board of treasury, to whom was referred a memorial of Mr. P. Schuyler, late a commissioner for Indian Affairs in the Northern department,

That the Memorialist was on the 13<sup>th</sup> day of July, 1775, appointed one of the Commissioners of Indian Affairs for the Northern Department being at that time a Major General in the Service of the United States, but that it does not appear from the Journals of Congress that any Allowance was fixed for the Services of the said Commissioners, whilst acting in that Capacity.

That on the 19<sup>th</sup> day of April, 1779, the resignation of the Military Commission of the Memorialist was accepted by Congress, but that the Memorialist states that subsequent to this Resignation he continued to execute the Orders of Congress relative to Indian Affairs and Secret Services in Canada till a new arrangement of the Indian Department took place on the 5<sup>th</sup> day of March, 1784.

From these Circumstances the Board are of opinion that although no special Allowance has been fixed for the Services of the Commissioners of Indian Affairs for the Northern Department yet it is proper that an Equitable Compensation should be made for their Services whilst acting in that Capacity more especially as Congress on the 5<sup>th</sup> July, 1776, Resolved that the sum of four Dollars per day should be allowed to the Commissioners of Indian Affairs for the Southern Department whilst in actual Service. In as much however as the Memorialist received pay as a General Officer to the 19<sup>th</sup> day of April, 1779, The Board are of opinion that he is precluded by the Resolve of Congress of the 18<sup>th</sup> September, 1776, from receiving pay in the Capacity of a Commissioner from the time of his appointment to the Period when his Resignation as a General Officer was accepted by Congress.

On the above premises the Board submit to the Judgment of Congress the following Resolve.<sup>1</sup>

*Resolved*, That in the settlement of the accounts of Philip Schuyler, late one of the commissioners of Indian Affairs for

<sup>1</sup>This report, signed by Samuel Osgood, Walter Livingston, and Arthur Lee, is in the *Papers of the Continental Congress*, No. 139, folio 367. It is undated and alterations made by Congress in the submitted resolve.



the northern department, he be allowed at the rate of four dollars per day, for every day he was actually employed in that business, after the nineteenth day of April, 1779, he having received pay as a major-general in the service of the United States, until that period.

That the allowance aforesaid be extended to all the commissioners of Indian affairs in the Northern department, during the time they were actually employed in the business of the said commission, the time actually employed to be ascertained on the oath of the parties respectively.

On motion of Mr. [Charles] Pinckney, seconded by Mr. [Henry] Lee,

Whereas the states of Massachusetts, Connecticut, New York and Virginia, have, in consequence of the recommendation of Congress of the sixth day of September, 1780, made cessions of their claims to western territory, to the United States in Congress assembled, for the use of the United States,

*Resolved*, That the said subject be again presented to the view of the States of North Carolina, South Carolina and Georgia, who have not complied with so reasonable a proposition; and that they be once more solicited to consider with candor and liberality the expectations of their sister States, and the earnest and repeated applications made to them by Congress on this subject.<sup>1</sup>

On a report of the Secretary at War,

*Resolved*, That the Secretary at War pay the expenses of Scotosh, a Wyandot warrior, and his companions, during their residence in the city of New York, and that the board of treasury furnish the Money for the purpose.

On a report of the board of treasury,

<sup>1</sup> This motion, in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 30, folio 553.

*Resolved*, That the sum of thirty dollars be allowed to Jeremiah Jackson, William Alexander, Robert Wilkin, Blackall William Ball, Edward Butler, and James Gilchrist, late officers in the Pennsylvania line, respectively, to defray travelling charges from the Southern Army in March, 1782.

On the report of a committee, consisting of Mr. [Charles] Pinckney, Mr. [William] Grayson and Mr. [Timothy] Bloodworth, to whom was referred a letter from the Secretary for foreign Affairs.

*Resolved*, That the Secretary for foreign Affairs cause to be made out separate lists of the numbers, names and owners of the Negroes belonging to the citizens of each State, and carried away by the british, in contravention of the late treaty of peace: and that he transmit the said lists to the executives of the States to which they respectively belong.

The Committee appointed under the resolution of 27 of July last submit the following report in part:

*Resolv'd*, \* \* \*

That a Committee be appointed to confer with the said Legislature as soon as it shall be conven'd, to state to them the exhausted and embarrassed state of the publick finances and in consequence thereof the eminent disadvantages which must result to the Union from her failure to comply with the said recommendation.<sup>1</sup>

<sup>1</sup> This report, in the writing of James Monroe, is in the *Papers of the Continental Congress*, No. 24, folio 423. According to indorsement it was read August 9 and passed August 11 where the omitted portions are spread *verbatim* on the Journal. Roger Alden's indorsement states "Comm<sup>es</sup> app<sup>d</sup> to confer with Legislature of Pens<sup>a</sup> respecting the Impost Law." See *post* August 14.

AUGUST 9: The following committees were appointed:

Mr. [Rufus] King, Mr. [Melancton] Smith, Mr. [Pierse] Long, Mr. [William Samuel] Johnson and Mr. [John] Bull, on "Motion of Mr. [Rufus] King for abolishing Com<sup>es</sup> for settling betw: U. S. and ind: states and appointing a board of three for that and other purposes." See *post*, September 5.

Mr. [Edward] Carrington, Mr. [Charles] Pinckney and Mr. [Nathan] Miller, on "Report of Com<sup>s</sup> of Army Acco<sup>es</sup> on Mem<sup>l</sup> of Marinus Willet." A report was rendered August 17. See *ante*, May 24, Pierce's report is indorsed as referred to the Board of Treasury for a report and report rendered and passed March 21, 1787.

A motion was this day made by Mr. [Nathan] Miller regarding the committee report on the Algerines. See *ante*, August 8.

*Committee Book No. 190.*

## THURSDAY, AUGUST 10, 1786.

Congress assembled. Present, as before.

Congress was resolved into a committee of the whole, on a communication from the Secretary for foreign Affairs: Mr. [John] Bull elected to the chair:

After some time the president resumed the chair, and Mr. Bull reported, that the committee have had under consideration the subject referred to them, but having come to no determination, desire leave to sit to-morrow.

*Ordered*, That leave be granted.

AUGUST 10, 1786.

On Motion or M<sup>r</sup> [William] Grayson, seconded by Mr. [Timothy] Bloodworth, the Secretary of Congress, transmitted to Mr. Jay the following Order:

“That the Secretary for foreign Affairs without delay state to Congress any information he may have received respecting the sentiments of the court of France touching our right of Navigating the Mississippi. Also that he state to Congress the territorial claims of Spain on the east side of the Mississippi.”<sup>1</sup>

OFFICE FOR FOREIGN AFFAIRS,

10<sup>th</sup> August, 1786.

SIR: I have this moment received an Order of Congress in the following words, Viz<sup>t</sup>—

“That the Secretary for foreign Affairs state to Congress without delay any Information he may have received respecting the Sentiments of the Court of France touching our Right of navigating the Mississippi; also that he state to Congress the territorial Claims of Spain on the east side of the Mississippi.”

Permit me sir, to observe that it is impossible to execute this Order instantly, because the Sentiments of the Court of France touching our Right to navigate the Mississippi are to be collected from Paragraphs and Documents so mixed with the Mass of Papers in this Office as to require time to select and Copy.

<sup>1</sup> This proceeding is entered, by Thomson, only in *Secret Journal, Foreign*, No. 5. The original motion in the writing of William Grayson is in the *Papers of the Continental Congress*, No. 81, II, folio 311. Thomson's letter to Jay is in No. 55, folio 323.

The Evidence we have of the territorial Claims of Spain on the east Side of the Mississippi is in the same Predicament, and some Time will be necessary to extract and arrange it.

It would be rash in me to attempt this Statement from Memory, especially as Omissions and Mistakes however accidental and unintentional might give Occasion to unpleasant Doubts and Conjectures.

I shall immediately lay aside other Business, and diligently apply myself to preparing this Statement; there shall be on my part no avoidable Delay, and the Moment it is finished it shall be transmitted to your Excellency.

I have the honor to be, etc.

JOHN JAY.<sup>1</sup>

His Excellency,  
The President of Congress.

[Motion of Delegates of Massachusetts]

[Resolved that the following words contained in an instruction of the U. S. in Congress assembled to the Sec<sup>y</sup> for the dep<sup>t</sup> of for<sup>n</sup> affairs made the 25<sup>th</sup> day of Aug<sup>r</sup> 1785.]

*Resolved*, That so much of the Resolution of Congress of the 25 day of Aug., 1785, being an instruction to the Secretary of the U. S. for the department of Foreign Affairs, as are contained in the following words, namely, ["And that the following be substituted in its place, that the Sec<sup>y</sup> to the U. S. for the department of foreign affairs be and hereby is instructed in his plan of a treaty with the Encargado de Negocios of his catholic Majesty particularly to stipulate the right of the U. S. to their territorial Bounds and the free navigation of the Mississippi, from the Source to the Ocean established in their treaties with Great Britain; and that he neither conclude or sign any Treaty, compact or convention with the said Encargado de Negocios untill he hath previously communicated it to Congress and received their approbation"] be and the same is hereby repealed, and made void \* \* \* 2

<sup>1</sup> This letter is in the *Papers of the Continental Congress*, No. 81, II, folio 213. According to indorsement it was read August 10.

<sup>2</sup> This motion, in the writing of Rufus King, except the portions in brackets which are in that of Theodore Sedgwick, is in the *Papers of the Continental Congress*, No. 81, II, folio 245. According to Thomson's indorsement it was offered August 10. The omitted portion, which is on folios 249-255, is in King's writing and is spread on the *Secret Journal, Foreign*, No. 5, August 28.

FRIDAY, AUGUST 11, 1786.

Congress assembled. Present as before.

The Order of the day being postponed, Congress took into Consideration the report of a committee, consisting of Mr. [James] Monroe, Mr. [Charles] Pinckney, Mr. [Samuel] Livermore, Mr. [Charles] Pettit and Mr. [Theodore] Sedgwick, and the first paragraph being amended to read:

That an Application be made immediately to the legislature of Pennsylvania, by a committee to attend and confer with the said legislature, to explain to them more fully the embarrassed state of the public finances, and to recommend it to the said state to repeal the clause in her Act granting the impost, which suspends its operation until all the states shall have granted the supplementary funds, so as to enable, on her part, the United States to carry the said system into effect as soon as possible.

A motion was made by Mr. [Henry] Lee, seconded by Mr. [Melancton] Smith, that the further consideration thereof be postponed: And on the question to postpone, the yeas and nays being required by Mr. [Melancton] Smith,

<i>New Hampshire,</i>			<i>New Jersey,</i>		
Mr. Livermore,	no	}no	Mr. Cadwallader,	no	}no
Long,	no		Symmes,	no	
<i>Massachusetts,</i>			Hornblower,	no	
Mr. Gorham,	no	}no	<i>Pennsylvania,</i>		
King,	no		Mr. Pettit,	ay	}ay
Sedgwick,	no		Bayard,	ay	
<i>Rhode Island,</i>			<i>Maryland,</i>		
Mr. Manning,	no	}no	Mr. Henry,	ay	}no
Miller,	no		Harrison,	no	
<i>Connecticut,</i>			Ramsay,	no	
Mr. Johnson,	ay	}ay	<i>Virginia,</i>		
Sturges,	ay		Mr. Grayson,	no	}div.
<i>New York,</i>			Monroe,	no	
Mr. Haring,	ay	}ay	Carrington,	ay	
Smith,	ay		Lee,	ay	



<i>North Carolina,</i>			<i>Georgia,</i>		
Mr. Bloodworth,	no	}no	Mr. Houstoun,	ay	}div.
White,	no		Few,	no	
<i>South Carolina,</i>					
Mr. Bull,	no	}no			
Pinckney,	no				
Huger,	no				
Parker,	no				
So it passed in the negative.					
On the question to agree to the paragraph; the yeas and nays being required by Mr. [Charles] Pettit,					
<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	ay	}ay	Mr. Henry,	no	}ay
Long,	ay		Harrison,	ay	
<i>Massachusetts,</i>			Ramsay,	ay	
Mr. Gorham,	ay	}ay	<i>Virginia,</i>		
King,	ay		Mr. Grayson,	no	}no
Sedgwick,	ay		Monroe,	ay	
<i>Rhode Island,</i>		Carrington,	no		
Mr. Manning,	ay	Lee,	no		
Miller,	ay	}ay	<i>North Carolina,</i>		
<i>Connecticut,</i>			Mr. Bloodworth,	ay	}ay
Mr. Johnson,	no	White,	ay		
Sturges,	no	}no	<i>South Carolina,</i>		
<i>New York,</i>			Mr. Bull,	ay	}ay
Mr. Haring,	no	Pinckney,	ay		
Smith,	no	Huger,	ay		
<i>New Jersey,</i>		Parker,	ay		
Mr. Cadwallader,	ay	}ay	<i>Georgia,</i>		
Symmes,	ay		Mr. Houstoun,	no	}div.
Hornblower,	ay		Few,	ay	
<i>Pennsylvania,</i>					
Mr. Pettit,	no	}no			
Bayard,	no				

So it was *Resolved*, That an application be made immediately to the legislature of Pennsylvania, by a committee to attend and confer with the said legislature, to explain to them more fully the embarrassed state of the public finances,



and to recommend it to the said state to repeal the clause in her act granting the impost, which suspends its operation until all the states shall have granted the supplementary funds, so as to enable, on her part, the United States in Congress assembled, to carry the said system into effect as soon as possible.

Congress proceeded in the further consideration of the report: and thereupon,

*Resolved*, That it be earnestly recommended to the Executive of the State of New York, immediately to convene the legislature of the said state, to take into consideration the recommendation of the 18 of April, 1783, for the purpose of granting the System of impost to the United States, in such conformity with the Acts and grants of the other states, as, on her part, to enable the United States in Congress assembled, to carry the same into immediate effect.

On the question to agree to the above resolution, the yeas and nays having been required by Mr. [John] Haring,

<i>New Hampshire,</i>			<i>New Jersey,</i>		
Mr. Livermore,	ay	}ay	Mr. Cadwallader,	ay	}ay
Long,	ay		Symmes,	ay	
<i>Massachusetts,</i>			Hornblower,	ay	
Mr. Gorham,	ay	}ay	<i>Pennsylvania,</i>		
King,	ay		Mr. Pettit,	ay	}ay
Sedgwick,	ay		Bayard,	ay	
<i>Rhode Island,</i>			<i>Maryland,</i>		
Mr. Manning,	ay	}ay	Mr. Henry,	ay	}ay
Miller,	ay		Harrison,	ay	
<i>Connecticut,</i>			Ramsay,	ay	
Mr. Johnson,	ay	}ay	<i>Virginia,</i>		
Sturges,	ay		Mr. Monroe,	ay	}ay
<i>New York,</i>			Carrington,	ay	
Mr. Haring,	no	}no	Lee,	ay	
Smith,	no		<i>North Carolina,</i>		
			Mr. Bloodworth,	ay	}ay
			White,	ay	

<i>South Carolina,</i>		<i>Georgia,</i>	
Mr. Bull,	ay	Mr. Houstoun,	ay
Pinckney,	ay	Few,	ay
Huger,	ay		
Parker,	ay		

So it was resolved in the affirmative.<sup>1</sup>

OFFICE OF SECY OF CONGRESS,  
Aug. 12, 1786.

On the two memorials from Mr. Peter Landais stating the Answers which the board of treasury gave him respecting his two memorials of the 31 July and containing a repetition of the said memorials, the Secretary of Congress reports as his Opinion:

That Mr. Landais be informed that his claim for interest on the gratuity of 12,000 livres from the 4 of Dec<sup>r</sup>, 1777 (the time he thinks it ought to have been made him), to the 6 March, 1779, when Congress were pleased to make him the grant; and interest upon that interest from the 6 of May, 1785, to the time it will be paid cannot be admitted.

That with respect to his other claim to be paid in ready money the sum of 1,814<sup>4</sup>/<sub>10</sub> dollars Congress have decided thereon by their Act of 2 June, 1785; and that Mr. Landais have leave to withdraw his said memorials.

Agreed to. If this should meet the approbation of Congress the Secretary further reports, That this be referred to the board of treasury to take Order.<sup>2</sup>

<sup>1</sup> AUGUST 11: "Memorial of Udney Hay complaining of the conduct of the Comptroller" was referred to the Board of Treasury to report and a report rendered October 10. The memorial dated August 10 was read August 11, according to indorsement. It is in No. 41, IV, folio 358. Another memorial praying for the privileges and emoluments of a retired lieutenant colonel, dated July 31, and also read on August 11, is on folio 362.

The "Petition of Francis Cazeau to be paid 300 dollars in part of 22,015 <sup>7</sup>/<sub>9</sub> dollars which he says is due him" was referred to the Board of Treasury to report and a report rendered August 15. The petition is in No. 42, II, folio 214.

*Committee Book, No. 190.*

Also was read, according to indorsement, a letter from the Board of Treasury, announcing that in a policy of expense retrenchment it had directed Mr. Story, one of the Commissioners for settling the accounts with Pennsylvania, to close his office. It is in No. 140, II, folio 249.

<sup>2</sup> This report is entered by Thomson in *Reports of the Secretary of Congress*, No. 180.

MONDAY, AUGUST 14, 1786.

Congress assembled. Present, as before.

A motion was made by Mr. [William] Houstoun, seconded by Mr. [Edward] Carrington, to consider the resolution of the 11th "That an application be made immediately to the legislature of Pennsylvania, by a committee to attend and confer with the said Legislature:" And on the question to reconsider, the yeas and nays being required by Mr. [William] Houstoun,

<i>New Hampshire,</i>			<i>Pennsylvania,</i>		
Mr. Livermore,	no	}no	Mr. Pettit,	ay	}ay
Long,	no		Bayard,	ay	
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Gorham,	no	}no	Mr. Henry,	ay	}no
King,	no		Harrison,	no	
Sedgwick,	no		Ramsay,	no	
<i>Rhode Island,</i>			<i>Virginia,</i>		
Mr. Manning,	no	}no	Mr. Monroe,	no	}ay
Miller,	no		Carrington,	ay	
<i>Connecticut,</i>			Lee,	ay	
Mr. Johnson,	ay	}ay	<i>North Carolina,</i>		
Sturges,	ay		Mr. Bloodworth,	no	}no
<i>New York,</i>			White,	no	
Mr. Haring,	ay	}ay	<i>South Carolina,</i>		
Smith,	ay		Mr. Bull,	no	}no
<i>New Jersey,</i>			Pinckney,	no	
Mr. Cadwallader,	no	}no	Parker,	no	
Symmes,	no		<i>Georgia,</i>		
Hornblower,	no		Mr. Houstoun,	ay	}div.
		Few,	no		

So it passed in the negative.

*Resolved,* That the committee to attend and confer with the legislature of Pennsylvania, consist of two members.

Mr. [Rufus] King and Mr. [James] Monroe were appointed.

A motion was made by Mr. [Melancton] Smith, seconded by Mr. [William] Houstoun,

That a committee be appointed to repair to the legislatures of Connecticut, New Jersey and North Carolina, who have not passed Acts in compliance with the requisition of Congress of the 27 September, 1785, " to explain to them more fully the embarrassed state of the public finances, to urge upon them the necessity of a full and immediate compliance with the said requisition, and that a committee be appointed, to prepare an Address to the states of New Hampshire and Maryland, who have passed Acts complying with the said requisition only in part, enforcing the necessity of a full and immediate compliance therewith."

On this the previous question was moved by the State of Massachusetts, seconded by the State of North Carolina: And on the question to agree to the previous question, the yeas and nays being required by Mr. [Melancton] Smith,

<i>New Hampshire,</i>			<i>Maryland,</i>	
Mr. Livermore,	ay	}ay	Mr. Henry,	ay
Long,	ay		Harrison,	ay
<i>Massachusetts,</i>			Ramsay,	ay
Mr. Gorham,	ay	}ay	<i>Virginia,</i>	
King,	ay		Mr. Grayson,	ay
Sedgwick,	ay		Monroe,	ay
<i>Rhode Island,</i>			Carrington,	ay
Mr. Manning,	ay	}ay	Lee,	ay
Miller,	ay		<i>North Carolina,</i>	
<i>Connecticut,</i>			Mr. Bloodworth,	ay
Mr. Johnson,	ay	}ay	White,	ay
Sturges,	ay		<i>South Carolina,</i>	
<i>New York,</i>			Mr. Bull,	ay
Mr. Haring,	no	}no	Pinckney,	ay
Smith,	no		Parker,	ay
<i>New Jersey,</i>			<i>Georgia,</i>	
Mr. Cadwallader,	ay	}ay	Mr. Houstoun,	no
Symmes,	ay		Few,	ay
Hornblower,	ay			
<i>Pennsylvania,</i>				
Mr. Pettit,	no	}div.		
Bayard,	ay			

So it was resolved in the affirmative, and the main question was set aside.<sup>1</sup>

Congress proceeded to the election of a Superintendent of Indian Affairs for the Northern district, and, the ballots being taken, Mr. Richard Butler was elected, having been previously nominated by Mr. [Charles] Pinckney.

[Motion of Mr. Pinckney]

Whereas the U. S. in Congress assembled on the 18<sup>th</sup> April, 1783, recommended to the several states as indispensably necessary to the restoration of public credit and to the honourable and punctual discharge of the public debts to invest the U. S. in Congress assembled with a power to levy for the use of the U. S. certain duties upon goods imported into the said states from any foreign port island or plantation; and farther recommended to the said states to establish for a term limited to twenty-five years and to appropriate to the discharge of the principal and interest of the debts contracted on the faith of the U. S. for supporting the war substantial and effectual revenues of such nature for supplying their respective proportions of 1,500,000 d<sup>s</sup> annually, exclusive of the above duties, which proportion shall be fixed and equalised from time to time, according to the rule which is or may be prescribed by the articles of confederation; and in case the revenues established by a state shall at any time yield a sum exceeding its actual proportion, the excess shall be refunded to it; and in case the revenues of any state shall be found to be deficient, the immediate deficiency shall be made up by such state as soon as possible and a future deficiency guarded against by an enlargement of the revenues established: provided that until the rule of the confederation can be carried into practice, the proportions of the said 1,500,000 dollars be as follows:

N. H. ....	52, 708	De. ....	22, 445
M. ....	224, 427	M. ....	141, 517
R. I. ....	32, 318	V. ....	256, 487
Co. ....	132, 091	N. C. ....	109, 006
N. Y. ....	128, 243	S. C. ....	96, 183
Penn. ....	205, 189	G. ....	16, 050

<sup>1</sup> See *post*, September 25.



The said last mentioned revenue to be collected by persons appointed under the authority of the several states and amenable to and removeable only by the U. S. in Congress assembled, but to be carried to the separate credit of the several states in which they shall be collected.

And Whereas only the states of Massachusetts, Pennsylvania, Delaware, Maryland, and North Carolina have complied with that part of the system which proposes the establishment of funds supplementary to and in aid of the general impost, and it being indispensably necessary to the restoration of public credit and the honourable and punctual discharge of the debts of the U. S. that this recommendation should be complied with as soon as may be by all the members of the confederacy

*Resolved*, That it be again earnestly recommended to the legislatures of the states of New Hampshire, Rhode Island, Connecticut, New York, New Jersey, Virginia, South Carolina, and Georgia, which have not yet passed acts in compliance with the same completely to adopt it at their session next succeeding the date of these resolutions.<sup>1</sup>

TUESDAY, AUGUST 15, 1786.

Congress assembled. Present as before.

The Committee consisting of Mr. [William] Grayson, Mr. [Rufus] King and Mr. [William] Few to whom was referred a motion respecting the conveyance of the mail having reported

That the postmaster general be instructed under the direction of the Board of treasury to enter into contracts with good and sufficient security for the conveyance of the different

<sup>1</sup> This motion, in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 26, folio 613. According to indorsement it was made August 14 and referred to Mr. [William Samuel] Johnson, Mr. [Charles] Pinckney and Mr. [Charles] Pettit. According to *Committee Book No. 190*, a report was rendered August 16.

AUGUST 14: The following committee was appointed: Mr. [James] McHenry, Mr. [Rufus] King and Mr. [Lambert] Cadwallader, on the "Report of the board of treasury relative to issuing Indents to State of Pennsylvania." Report was rendered August 16.



mails by the stage carriages from Portsmouth in Newhampshire to the town of Augusta in the State of Georgia &c.

A motion was made by Mr. [William] Houston seconded by Mr. [Lambert] Cadwallader to amend the report by striking out Augusta and inserting Savannah, and on the question to agree to this Amendment the yeas and nays being required by Mr. [William] Few and Mr. [William] Houston

<i>New Hampshire</i>			<i>Pennsylvania</i>		
Mr. Livermore,	no	} no	Mr. Pettit,	no	} no
Long,	no		Bayard,	no	
<i>Massachusetts</i>			<i>Maryland</i>		
Mr. Gorham,	ay	} ay	Mr. Henry,	ay	} ay
King,	no		Harrison,	ay	
Sedgwick	ay		Ramsay,	no	
<i>Rhode Island</i>			<i>Virginia</i>		
Mr. Manning,	ay	} ay	Mr. Grayson,	no	} no
Miller,	ay		Carrington,	ay	
<i>Connecticut</i>			Lee,	no	
Mr. Johnson,	no	} no	<i>North Carolina</i>		
Sturges,	no		Mr. Bloodworth,	no	} no
<i>New York</i>			White,	no	
Mr. Haring,	ay	} ay	<i>South Carolina</i>		
Smith,	ay		Mr. Bull,	ay	} ay
<i>New Jersey</i>			Pinckney,	ay	
Mr. Cadwallader,	ay	} ay	<i>Georgia</i>		
Symmes,	ay		Mr. Houston,	ay	} div.
Hornblower,	no		Few,	no	

So the question was lost.

A Motion was then made by Mr. [William] Houston seconded by Mr. [Melancton] Smith to strike out the word "Augusta" and on the question shall "Augusta" stand, the yeas and nays being required by Mr. [William] Few.

<i>New Hampshire</i>			<i>Pennsylvania</i>	
Mr. Livermore,	ay	} ay	Mr. Pettit,	ay
Long,	ay		Bayard,	ay
<i>Massachusetts</i>			<i>Maryland</i>	
Mr. Gorham,	no	} no	Mr. Henry,	no
King,	ay		Harrison,	no
Sedgwick,	no		Ramsay,	ay
<i>Rhode Island</i>			<i>Virginia</i>	
Mr. Manning,	no	} no	Mr. Grayson,	ay
Miller,	no		Carrington,	no
<i>Connecticut</i>			Lee,	ay
Mr. Johnson,	no	} div.	<i>North Carolina</i>	
Sturges,	ay		Mr. Bloodworth,	ay
<i>New York</i>			White,	ay
Mr. Haring,	no	} no	<i>South Carolina</i>	
Smith,	no		Mr. Pinckney,	no
<i>New Jersey</i>			Parker,	no
Mr. Cadwallader,	no	} no	<i>Georgia</i>	
Symmes,	no		Mr. Houston,	no
Hornblower,	ay		Few,	ay

So the question was lost and the word was struck out.<sup>1</sup>

*Ordered*, That the Sec<sup>y</sup> of cong. take order without Delay to employ some person or persons to make an Index to the printed Journals of Congress, that he procure the same to be printed, and that the board of treasury take order to defrey the necessary expence.

Aug. 15, 1786: Referred to the Sec<sup>y</sup> of Congress to take Order.<sup>2</sup>

The Board of Treasury to whom was Referred the Memorial of Francis Cazeau, praying Payment of the Sum of Three hundred Dollars in Cash, in part of the sum of 22,015<sup>7</sup>/<sub>10</sub>ths Dollars, by him Claimed of the United States, Beg leave to Report:

That this Board are not furnished with any Evidence in proof that any part of the Sum of Twenty-two thousand and fifteen Dollars <sup>7</sup>/<sub>10</sub>ths is due from the United States to the said Francis Cazeau.

<sup>1</sup> See *post*, August 16.

<sup>2</sup> This motion, in the writing of Rufus King, is in the *Papers of the Continental Congress*, No. 23, folio 301. The reference is in the writing of Thomson.

Also, according to indorsement, was read a letter from Robert Pemberton, Clerk in the War Office, enclosing an extract of a letter from Major North and various Indian speeches. With enclosures it is in No. 150, I, folios 491-518.

They therefore submit to the consideration of Congress the following Resolve:

That the Memorial of Francis Cazeau be dismissed.<sup>1</sup>

August 14<sup>th</sup>, 1786.

WEDNESDAY, AUGUST 16, 1786.

Congress assembled. Present as before.

A letter, of this day, from Mr. W. Livingston, one of the Commissioners of the board of treasury, was read, requesting leave of absence for one month from the 21st of this month.<sup>2</sup>

*Ordered*, That leave be granted.

[OFFICE OF SECRETARY OF CONGRESS],

*Aug 16, 1786.*

On a petition of Doct. Pelon a Canadian stating his attachm<sup>t</sup> to the Cause of America and his losses and sufferings on that Acco<sup>t</sup> and praying for some compensation the Sec<sup>y</sup> of Congress reports:

Agreed to. That the petition of Doct. Pelong be referred to the board of treas<sup>y</sup>.<sup>3</sup>

The Committee consisting of Mr. [William Samuel] Johnson, Mr. [Charles] Pinckney and Mr. [Charles] Pettit to whom was referred a motion of Mr. Pinckney, Report:

That in examining the several provisions which have been intended by Congress for the security and payment of the domestic debt, they find that such has been the inattention of the several states to the annual requisition of Congress and so few of them have passed acts in conformity with that part of the Revenue system of the 18 April, 1783, which proposes the establishment of funds supplementary to and in aid of the general impost, that no reasonable hope can be indulged of effectual provision being made by either of the means above mentioned.

That it appears to your committee expedient some mode should be established for the speedy extinguishment of the said domestic

<sup>1</sup> This report, signed by Samuel Osgood, Walter Livingston, and Arthur Lee, is in the *Papers of the Continental Congress*, No. 138, I, folio 211. According to indorsement it was read August 15.

<sup>2</sup> Livingston's letter is in No. 78, XIV, folio 727.

<sup>3</sup> This report is entered by Thomson in *Reports of the Secretary of Congress*, No. 180.

debt and which would tend to equalize its burden by drawing from the several members of the confederacy their full and just proportions of the same.

After the fullest investigation there appears no mode so reasonable or so probable of success as that of apportioning upon the several states their quota's of the domestic debt as far as the same is at present liquidated and requiring them to pay the same into the federal treasury at a stated period.

Whereupon the Committee submit to Congress the following resolutions:

*Resolved*, That the Board of Treasury be and they are hereby directed to report a requisition on the several states for their respective quotas of the domestic debt as far as the same is at present liquidated and ascertained.

That the said states be required to pay their respective quotas of the said debt into the federal treasury on or before the        day of        in continental loan office certificates and other certificates of debts due from the United States liquidated and ascertained according to the direction of the United States in Congress assembled, the Loan office certificates bearing date after the last day of february, 1778, to be liquidated by the scale of June, 1780.

That if any state shall offer in payment Certificates, whereon interest has not been paid up to the 31<sup>st</sup> December, 1785, such state shall be credited on account of the facility part of the requisitions of 1785 and 1786 for the amount of such interest as may remain due on such certificates to the said 31 december 1785.

That any state which shall have paid its quota of such certificates shall at any time after the Expiration of the said        Day of        be permitted to pay in any farther sum in certificates of the like kind to be passed to the credit of such state and be allowed in the settlement of the general account of such state with the United States.

That the vacant territory of the U. S. to be sold in the respective states Pursuant to the Ordinance of the 20<sup>th</sup> May, 1785, may be paid for in the mode therein mentioned or in such certificates of debts due from the state in which the lands are as aforesaid to be sold as such state shall direct,—provided such state shall be paid into the treasury of the U. S. the quota of certificates demanded by the said requisition.

That the states shall respectively have Credit on account of the supplementary funds recommended by the system of 18 April, 1783,

or on account of such requisition as may hereafter be made for the purpose of paying the interests of the domestic debt, for the amount of the interests which shall from time to time become due from and after the 31<sup>st</sup> December, 1785, on such certificates of liquidated debts as any state shall have paid in, pursuant to the said requisition.<sup>1</sup>

The Committee consisting of Mr. [William Samuel] Johnson, Mr. [Charles] Pinckney and Mr. Pettit to whom was referred a motion of Mr. [Charles] Pinckney, Report in part:

That in pursuance of the above reference they have carefully examined the acts passed by the several states relative to the general system of revenue recommended by Congress on the 18 April, 1783, and find that only the states of Massachusetts, Pennsylvania, Delaware, Maryland, and North Carolina have passed acts in pursuance of that part of the recommendation which proposes the establishment of funds supplementary to, and in aid of the general impost.

That it appears to your committee indispensably necessary to the restoration of public credit—the honourable and punctual discharge of the debts of the United States and the equalising the said system of revenue, that this part of the recommendation should be speedily and fully complied with by all the members of the Confederacy.

Whereupon the committee ~~recommend~~ submit to Congress the following resolution:

*Resolved*, That it be again earnestly recommended to the legislatures of the states of New Hampshire, Rhode Island, Connecticut, New York, New Jersey, Virginia, South Carolina, and Georgia which have not yet complied with that part of the system of general revenue recommended by Congress on the 18 April, 1783, which proposes the establishment of funds supplementary to and in aid of the general impost to pass laws ~~without further delay~~ in full conformity with the same at their session next succeeding the date of these resolutions and not further delay the completion of a system so essential to the assertion of the public credit and the honourable and punctual discharge of the debts of the U. S.<sup>2</sup>

<sup>1</sup> This report, in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 26, folio 603; a printed copy is on folio 607. According to indorsement it was read August 16 “2<sup>d</sup> Report, 1786. Order for Monday Aug<sup>t</sup> 21, 1786.” *Committee Book No. 189* states that it was transferred.

<sup>2</sup> This report, in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 26, folio 609. According to indorsement it was the: “1<sup>st</sup> report” and was read August 16, 1786.



The commee [consisting of Mr. William Henry, Mr. Rufus King and Mr. Lambert Cadwallader] to whom was the report of the board of Treasury relative to the Issue of Indents to the State of Pennsylvania, Submit the following Resolves: <sup>1</sup>

THURSDAY, AUGUST 17, 1786.

Congress assembled. Present as before.

According to Order, Congress went into a committee of the whole, and after some time the president resumed the chair, and Mr. Bull reported, that the Committee of the

<sup>1</sup> This report, in the writing of Rufus King, is in the *Papers of the Continental Congress*, No. 20, II, folio 181. According to indorsement it was read August 16. The submitted resolves were passed August 23, where they are spread *verbatim* on the Journal.

AUGUST 16: The following committee was appointed: Mr. [William Samuel] Johnson, Mr. [Rufus] King, Mr. [Charles] Pinekney, Mr. [James] Monroe and Mr. [William] Grayson, on "Letter 16 Aug. 1786 Govt of New York." A report was rendered August 18 and considered by Congress August 22. Governor Clinton's letter is in No. 67, II, folio 539 and is in answer to Congress' recommendation regarding the resolutions of April 18, 1783.

"A report for transportation of the Mail and establishment of cross posts" was referred to the Postmaster General "To report an estimate of the annual expence of the several cross posts proposed to be established and also the probable productiveness of the said posts respectively." Report was rendered August 21. See *ante*, August 15. A resolution in the writing of Charles Thomson and Roger Alden, with a few changes by Rufus King, is in No. 61, folio 537. It is dated August 16 and is practically identical with the report of the committee of August 24 which was adopted and spread on the Journal September 4.

*Committee Book No. 190.*

Also, according to indorsement, a petition of August 15 from Edward Fox, Commissioner for settling Hospital Accounts, was read, praying relief from financial loss caused by his moving from Philadelphia to New York on Congress business. It is in No. 41, III, folio 334, and the indorsement states that it was referred August 17 to a committee. See *post*, August 18.

Also was read a letter of August 15, from Arthur Lee asking to have delivered to him, free of postage charges, a box addressed to his brother Richard Henry Lee which was put into the post office by mistake. It is in No. 78, XIV, folio 627 and is indorsed "Referred to the postmaster general to take Order. Cha<sup>s</sup> Thomson Sec<sup>y</sup>"

Also on this day Mr. Charles Pinekney delivered a speech in Congress in answer to Mr. Jay's speech of August 3 on the Spanish negotiation. It is in broadside form among the Continental Congress broadsides and will be found under the Notes of Debates.



whole have had under consideration the subject referred to them, but not having come to a conclusion, desire to sit again.

*Ordered*, That the Committee of the Whole sit again to Morrow.

BOARD OF TREASURY,

*August 9<sup>th</sup>, 1786.*

SIR: Since our Report to Congress of the 5<sup>th</sup> Inst. on the propriety of renewing Certificates of Debt issued under the Authority of the United States, and made payable to Bearer, it has occurred to us that if the principles we have stated, are approved of by Congress, it might be proper to fix a period when the operation of the first Resolve Submitted in the Report should take place, and to permit all Applications for Renewal of Securities lost or destroyed previous to the date of passing such a Resolve to stand on their respective merits.

We are induced to make this proposition from a consideration that the Resolves of Congress of 10<sup>th</sup> May, and 18<sup>th</sup> July, 1780, permit the renewal of Certificates lost or destroyed under certain restrictions, and though this privilege is confined by these Resolves to Loan Office Certificates, the Spirit of it extends to all Securities made payable to Bearer. In consequence of these Resolves it is probable that many persons who have lost Certificates have taken the previous measures pointed out by the Resolves aforesaid, to entitle them to a Renewal, and it therefore would not be equitable in our Opinion, to preclude them from the Benefit of a Right acquired under positive Acts of Congress. The possessors of Certificates made payable to Bearer being thus forewarn'd that no Renewal in ease of Total Loss, or Destruction, would in future be admitted, would be more cautious in preserving the same, than hitherto they have been, or would Exchange their Certificates for such as are only transferable at the Treasury.

Your Excellency will oblige us in making this communication to Congress whenever the Report we refer to, is the object of their consideration.

We have the honor to be, etc.<sup>1</sup>

His Excell<sup>y</sup>

The President of Congress.

The committee [consisting of Mr. William Samuel Johnson, Mr. John Cleves Symmes and Mr. James Manning] to whom was refered a letter from Lieut. Colonel Harmer to the Secretary of War, together with another letter from Mr. Ettwein to the Secretary of Congress both relative to the Moravian Indians, report:

That about one hundred of the said Indians having lately removed from the river Huron to Cayahoga, intend by the leave of Congress to return in the fall of the present year to their former settlements on the muskingum river.

The committee are of opinion that some attention as well in policy as charity ought to be paid to the accommodation of the said Indians, by giving them permission to return to the place of their old habitation on the Muskingum, and making some provision for their subsistence through the ensuing winter. That they also be assured of the friendship and protection of the United States.

The committee therefore submit to Congress the following resolution.<sup>2</sup>

[OFFICE OF SECRETARY OF CONGRESS,]

*August 17, 1786.*

On the memorial of F. Cazeau stating that in consequence of his memorial of the 31 July his claims therein mentioned have been liquidated at the treasury office and that he has received from the Register a certificate dated the 9<sup>th</sup> of this month for 91 $\frac{64}{90}$  dollars

<sup>1</sup> This letter, signed by Samuel Osgood, Walter Livingston, and Arthur Lee, is in the *Papers of the Continental Congress*, No. 139, folio 375. According to indorsement it was referred on August 17 to Mr. [William Samuel] Johnson, Mr. [William] Grayson and Mr. Arthur St. Clair. See *post*, February 12, 1787.

<sup>2</sup> This report, in the writing of John Cleves Symmes, is in the *Papers of the Continental Congress*, No. 30, folio 389. According to Thomson's indorsement it was read August 17. The submitted resolution was passed with some additions, which are entered on this report, August 24. The Extract from Josiah Harmar's letter is in No. 150, I, folio 487. It was forwarded in a letter from Robert Pemberton, which is on folio 483 and according to Thomson's indorsement thereon the matter was referred to the same committee on August 7.

bearing interest at 6 per cent from the 1 July, 1776, and praying on Account of his distressed situation that the amount of the said certificate with the Interest due thereon may be paid. The Secretary of Congress reports:

Agreed to 18 Aug.

That the memorial of Fra: Cazeau be referred to the board of treasury to report.

On the memorial of E. Fox stating that by his removal to New York in Obedience to the Order of Congress he has been exposed to heavy expences as well as to great loss and inconvenience and praying for a reimbursement of his actual expences and loss, the Secretary of Congress reports:

Agreed to 18<sup>th</sup>

That the memorial of E. Fox be referred to a Comm<sup>ee</sup>

On the letter of 15 from Mr. A. Lee stating that there is in the post Office a small box directed to R. H. Lee, Esq. on which the postage charged from Baltimore is 30. 13. 4 and requesting as the putting it into the p. Office must have been from a mistaken Opinion that R. H. Lee, Esq. was attending Congress, that the p. master be directed to deliver the s<sup>d</sup> box free of postage, the Sec<sup>y</sup> of C. reports:

Amended and agreed to 18<sup>th</sup>

That the letter of A. Lee be referred to the post Master general to take Order.<sup>1</sup>

#### FRIDAY, AUGUST 18, 1786.

Congress assembled. Present as before.

According to Order, Congress went into a committee of the whole. After some time the president resumed the chair, and Mr. Bull reported, that the Committee of the whole have had under Consideration the subject referred to them, but not having come to a conclusion, desire leave to sit again.

*Ordered*, That the Committee of the whole sit again on Monday next.

The Committee consisting of Mr. [William Samuel] Johnson, Mr. [Rufus] King, Mr. [Charles] Pinekney, Mr. [James] Monroe and Mr.

<sup>1</sup> These reports were entered by Thomson in *Reports of the Secretary*, No. 180. Cazeau's memorial, dated August 10, is in No. 42, II, folio 214.

[William] Grayson to whom was referred a letter from his Excellency The Governor of New York of the 16<sup>th</sup> Instant, Report: <sup>1</sup>

MONDAY, AUGUST 21, 1786.

Congress assembled. Present as before.

~~The order of the day being called by the State of South Carolina to take into consideration the report.~~<sup>2</sup>

According to Order, Congress went into a committee of the whole, and after some time the president resumed the chair, and Mr. [John] Bull reported, that the Committee of the whole have had under Consideration the subject referred to them, but not having come to a conclusion, desire leave to sit again.

<sup>1</sup> This report, in the writing of Roger Alden, is in the *Papers of the Continental Congress*, No. 20, I, folio 321. According to indorsement it was read August 18 and made the "Order of the day for tuesday 22<sup>d</sup>" The report was printed for this consideration of the 22d and one of the imprints is pasted in the Journal of that date.

AUGUST 18: The following committee was appointed: Mr. [Nathaniel] Ramsay, Mr. [Josiah] Hornblower and Mr. [John Bubenheim] Bayard, on the "Mem<sup>l</sup> E. Fox compensation for expences and loss by removing to N. York." This committee "Discharged 12 Feb<sup>y</sup>, 1787. Mem<sup>l</sup> referred to b<sup>d</sup> treas."

The petition of Francis Cazeau was referred to the Board of Treasury to report.

The letter of 15th from Arthur Lee was referred to the Postmaster General to take Order.

The "Petition of capt. J. P. Shott to be paid a sum of money" was referred to the Board of Treasury to report and a report rendered September 12. Schott's petition is in No. 42, VII, folio 255.

*Committee Book No. 190.*

The report of the Secretary for Foreign Affairs on his report on the Consular Convention with France was this day submitted, according to indorsement and *Committee Book No. 190*. It was read September 12 and referred to a committee.

<sup>2</sup> This lined-out entry is evidence that so far as the entries of August 21 and August 22 are concerned, Thomson did not enter the proceedings of these two days at the time they occurred in the Congress Chamber, but at some later time. Cf. *post*, August 22.

*Ordered*, That the committee of the whole sit again to Morrow.

GENERAL POST OFFICE,  
August 21<sup>st</sup>, 1786.

SIR: I have the honor to inform your Excellency that the Report of the Honorable Committee of the 16<sup>th</sup> and 17<sup>th</sup> Ins<sup>t</sup> "for Transportation of the Mail and Establishment of cross Posts," which was referred to the Postmaster General has been under Consideration, and I now beg leave to report:

That limiting the number of Contracts to *four*, will, probably, not fully answer the end proposed; because the Stages in each District fixed upon for the Extent of a Contract, are not all owned by the same Persons; and consequently there must still be a *joint Contract*, though of less Extent than the present. This will be the Case between Portsmouth and New York, and between Philadelphia and Petersburg. In each of these Distances the Stages are owned by different Persons, some of whom have exclusive Privileges on particular Parts of the Road, and others have not; and the Experience of this Year has taught that by a Combination among the Proprietors of the Stages the Advantages arising from these Privileges may be transferred to Persons to whom they were not originally given, and the Public made to pay for it. There is Reason also, to suppose that a Contract from Portsmouth to New York cannot be formed, as two of the three Proprietors have declared that if ever they contract again, it shall be separately, and independently of every other Person.

That, judging of the Expence of the Cross Posts by what is now paid upon Part of those Routes, and supposing that upon the other Parts it will not be less than the stated Price of Post-riding prior to the Revolution which was two Dollars and two-thirds of a Dollar



pr. mile pr Annum, the Cost of the Establishment now proposed will be nearly as follows, viz<sup>t</sup>

	Reputed Distance (miles)	Per annum
From Portsmouth to Pownalborough.....	104	£110
Boston to Portsmouth.....	120	120
Springfield to Albany.....	94	94
New York to Albany.....	165	562. 10
New York to Hartford.....	127	127
Baltimore to Annapolis.....	30	143
Philadelphia to Vienna.....	152	200
Alexandria to Fort Pitt.....	348	348
Philadelphia to Bedford.....	212	212
Wilmington to Fayetteville.....	100	100
Fayetteville to Camden.....	115	115
Camden to Charlestown.....	120	120
Camden to Augusta.....	80	80
Annapolis to Bowling Green (as this Route lies near the Sea Coast it will be more expensive than those more remote).....	95	285
		<hr/> £2, 616. 10

If the present Expence upon some of these Roads should be deducted viz<sup>t</sup>

	Per ann.
From Portsmouth to Portland.....	£68
New York to Albany.....	562. 10
Baltimore to Annapolis.....	143
Philadelphia to Talbot Court House.....	160
Amounting to.....	<hr/> £933. 10

The Increase of Expence occasioned by the proposed Establishment will be..... £1, 683  
(equal to four Thousand four hundred and eighty-eight Dollars.)

Admitting the above Calculation of Distances and Prices to be accurate, the former will, probably, be found to be nearly so; but the latter, being founded more upon Conjecture, cannot be so much depended upon. Two Dollars and two thirds pr. Mile was the Price of Post-riding upon the *main* Road: travelling Expences must be less, farther back in the Country; but being doubtless, greater now than before the Revolution, it is supposed that what was then paid upon the main Road may be about the Standard for the Cross Roads now.

As no Experiment has been made upon most of the proposed cross Roads, it is difficult if not impracticable to form even a tolerable



Conjecture of their probable Productiveness; but as there is annually a considerable Loss upon those already established (except from Philadelphia to Talbot Court House) it seems reasonable to conclude that there will be a much greater upon Roads through Countries less populous, that do not possess equal commercial Advantages.

In considering this Subject an Idea occurred to me, which I beg leave to suggest: it is, that the Post Master General be authorized to contract for the Establishment of the Cross Posts now proposed (and as many others as he shall from time to time think proper) with any suitable Persons who will undertake the Business at their own Expence, and give sufficient Security for the Performance of the Contract; and to give such Persons an exclusive Privilege of posting upon such Roads for a Term of Years. It is highly probable that, upon this Plan many more Establishments, than are now in Contemplation, may be made, without any Expence to the Union; which, at the Expiration of the Contract, will become Sources of Revenue. Should the Idea be a little extended, and a longer Term of years allowed to such Persons as would establish *Stage Carriages* for the Purpose of transporting the Mail upon Cross Roads, perhaps the Public would derive greater Benefit from the Plan. All which is most respectfully submitted.

I have the Honor to be etc.

EBEN. HAZARD.<sup>1</sup>

TUESDAY, AUGUST 22, 1786.

Congress assembled. Present, as before.

The order of the day being called for by the State of South Carolina, to take into consideration the report<sup>2</sup> of a committee, to whom was referred a letter of the 16, from his Excellency the governor of New York; another order of the day being also called for by the State of Massachusetts, to

<sup>1</sup> This report is in the *Papers of the Continental Congress*, No. 61, folio 375. According to indorsement it was read August 21 and referred to a committee August 24. See *ante*, August 16.

Also, according to *Committee Book No. 190*, "a certificate and acco<sup>t</sup> of Col. Lewis" was this day referred to the Board of Treasury to report.

<sup>2</sup> See *ante*, August 21.

go into a committee of the whole: On the question to take into consideration the report called for, which is in the words following:

The Committee, consisting of Mr. [William Samuel] Johnson, Mr. [Rufus] King, Mr. [Charles] Pinckney, Mr. [James] Monroe and Mr. [William] Grayson, to whom was referred a Letter from his Excellency the Governor of New York, of the 16th instant, Report:

That they have examined an act passed by the state of New-York, on the 4th day of May last, entitled "An act for giving and granting to the United States in Congress assembled, certain imposts and duties on foreign goods imported into that state, for the special purpose of paying the principal and interest of the debt contracted in the prosecution of the late war with Great-Britain:" That by the act of Congress of the 18th April, 1783, it is recommended to the several states, as indispensably necessary to the restoration of public credit, and to the punctual and honorable discharge of the public debts, to invest the United States in Congress assembled, with a power to levy certain duties upon goods imported into the United States; provided that the collectors of the said duties should be appointed by the states within which their offices are to be respectively exercised; but when so appointed, to be amenable to and removable by the United States in Congress assembled alone. The committee conceive that the investing the United States in Congress assembled with this power, which includes that of forming the necessary regulations, or revenue laws, with suitable penalties, of declaring the money in which the said duties shall be received, of establishing the number of revenue officers, and ascertaining their duties, has been and must be considered as an essential part of the plan submitted to the several states for their adoption: The exercise of this power by thirteen separate authorities, would introduce different laws upon the same subject, ordain various penalties for the same offence, destroy the equality of the tax, and might, in a great measure, defeat the revenue. All the states, except New-York, having in pursuance of the recommendation of the 18th April, 1783, granted the imposts by acts vesting this power, with certain qualifications, exclusively in the United States in Congress assembled; the long continued embarrassments of the public finances, and the indispensable demands on the federal government, dictate

the necessity of an immediate and unanimous adoption of this measure: Impressed with these opinions, the committee have carefully examined the act of the state of New-York, and submit the following remarks:

1st. That several of the states which have passed acts, investing the United States in Congress assembled, under certain restrictions, with power to levy the duties on goods imported into the United States, agreeably to the recommendation of the 18th of April, 1783, have inserted in their acts, express conditions that the same shall not be in force, or begin to operate, until all the states in the confederacy have passed acts vesting the United States in Congress assembled, with power to levy in the several states like duties.

2d. That the act of the state of New-York, ~~referred to the committee~~ does not invest the United States in Congress assembled, with power to levy in that state the duties therein mentioned, but reserves to the state of New-York, the sole power of levying and collecting the same in the manner directed in and by an act of that state, entitled "An act imposing duties on certain goods, wares and merchandise imported into the said state," passed the 18th day of November, 1784, and consequently prevents the operation of the impost in those states which have made the exercise of this power, by the United States in Congress assembled, an indispensable and express condition of their grants.

3d. That the said act does not make the collectors of the said duties amenable to and removable by the United States in Congress assembled; but ordains, that upon conviction before the supreme court of judicature, or in the court of exchequer of the state of New-York, for any default or neglect in the execution of the duties required of them by the said act, or by an act of that state, entitled "An act imposing duties on certain goods, wares and merchandise imported into the said state," they shall be removed from office, and others appointed instead of the persons so convicted; which is a material departure from the plan recommended by Congress.

4th. That by an act of the state of New-York, entitled "An act for emitting the sum of 200,000*l.* in bills of credit, for the purposes therein mentioned," passed the 18th April, 1786, it is among other things enacted, "That gold and silver, and the bills of credit emitted by virtue of the said act, shall be received by the collector for duties arising on goods, wares and merchandise imported into the said state after the passing the said act;" in consequence whereof, admitting

that the system of a general impost could be put in operation, it would remain optional with the importer to pay the duties on goods imported into the state of New-York, in specie or bills of credit, emitted by virtue of the aforesaid act.

5th. If bills of credit of the state of New-York should be received from the importer in that state, upon the principles of equal justice, bills of credit emitted by any other state, must be received from the importer of goods in such state, and thereby instead of the system yielding a sum in actual money, nothing but paper would be brought into the federal treasury, which would be wholly inapplicable to the payment of any part of the interest or principal of the foreign debt of the United States. Whereupon the committee submit the following resolutions:

1st. *Resolved*, That the act of the state of New-York, entitled "An act for giving and granting to the United States in Congress assembled, certain imposts and duties on foreign goods imported into that state, for the special purpose of paying the principal and interest of the debts contracted in the prosecution of the late war with Great-Britain," so essentially varies from the system of impost recommended by the United States in Congress assembled, on the 18th day of April, 1783, that the said act is not, and cannot be considered as a compliance with the same.

2d. *Resolved*, That the present critical and embarrassed situation of the finances of the United States is such, as to require, that the system of impost should be carried into immediate effect. That New-York being the only state which has not yet adopted the same, the United States in Congress assembled, deem this an occasion sufficiently important and extraordinary, to request, that the legislature of the said state be convened, for the purpose of taking the said system into their immediate and serious consideration, and granting the same, in the manner recommended by the resolution of the 18th April, 1783.

3d. *Resolved*, That it be earnestly recommended to the executive of the state of New-York, immediately to convene the legislature of the said state, to take into their consideration, the recommendation of the 18th April, 1783, for the purpose of granting the system of impost in such conformity with the acts and grants of the other states, as on their part to enable the United States in Congress assembled, to carry the same into effect:<sup>1</sup>

<sup>1</sup> This report, in printed form, has been pasted into the Journals by Thomson.



The yeas and nays being required by Mr. [James] Monroe,

<i>New Hampshire,</i>			<i>Pennsylvania,</i>		
Mr. Livermore,	no	}no	Mr. Bayard,	no	}no
Long,	no		St. Clair,	no	
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Gorham,	no	}no	Mr. Henry,	ay	}ay
King,	no		Harrison,	ay	
Sedgwick,	no		Ramsay,	ay	
<i>Rhode Island,</i>			<i>Virginia,</i>		
Mr. Manning,	no	}no	Mr. Grayson,	ay	}ay
Miller,	no		Monroe,	ay	
<i>Connecticut,</i>			Carrington,	ay	
Mr. Johnson,	no	}no	Lee,	ay	
Sturges,	no		<i>North Carolina,</i>		
<i>New York,</i>			Mr. Bloodworth,	ay	}ay
Mr. Lawrance,	no	}no	White,	ay	
Haring,	no		<i>South Carolina,</i>		
Smith,	no		Mr. Bull,	ay	}ay
<i>New Jersey,</i>			Pinekney,	ay	
Mr. Cadwallader,	no	}no	<i>Georgia,</i>		
Symmes,	ay		Mr. Houstoun,	ay	}ay
Hornblower,	no		Few,	ay	

So it passed in the negative.

Congress then went into a committee of the whole, and after some time the President resumed the chair, and Mr. [John] Bull reported, that the committee of the whole have had under consideration the subject referred to them, but not having come to a conclusion, desire leave to sit again.

*Ordered,* That the committee of the whole sit again to-morrow.

The Board of Treasury to whom was referred the Petition of James Burnside, Doyle Sweeney, and Robert Underwood, late Clerks to the Commissioners for Settling Accounts of the Hospital and clothing Departments, beg leave to Report:

That the Resolves of Congress of March 24<sup>th</sup>, 1786 (establishing a new System for Settling the Accounts of the five great Departments), having fixed a period of three Weeks for the termination of the Busi-



ness under the former Commission, the principal part of the Books and Papers belonging to the respective Offices might, in the opinion of the Board, have been got ready for delivery, previous to the 15<sup>th</sup> April, last, and that at all events, the Service of more than one person was not necessary to complete this object after that period.

That on this account the Board conceived themselves authorised to make an extra Allowance to the Principals of the Department of a Months Salary, presuming, that from this allowance compensation would be made by the Commissioners to their respective Clerks, who it is to be supposed were principally employed in the Business of preparing for delivery the Books and Papers of their several Offices.

That as such compensation has not been made by the several Commissioners, and as the principal Business for which it is claimed, has been done by their Clerks (whose Salaries are not more than is necessary for their actual Subsistence). The Board submit to the consideration of Congress the following Resolve:

That there be allowed to each of the Commissions for Settling the Accounts of the five great Departments, the Salary of One Clerk from the 15<sup>th</sup> April, last, to the time when the Books and Papers of the respective Departments were delivered over to the present Commissioners.

All which is humbly submitted.<sup>1</sup>

August 21<sup>st</sup>, 1786.

The Board of Treasury to whom was Referred the Claim of Joseph Abbot, beg leave to Report:

That it appears by the Copy of the Record of a Supreme Court of Judicature, holden at Amherst in the State of New Hampshire on the second Tuesday in May, 1785. That a certain William Morlin of Salem in the County of Rockingham in the said State, was Indicted and found Guilty of Counterfeiting a final Settlement Certificate of John Pierce Commissioner of Army Accounts, and of offering to pass the same to Joseph Abbott.

That the said Abbott in consequence of this Conviction Claims the Reward offered by the Proclamation of the United States in Congress of the 2<sup>d</sup> February, 1785, to the Person or Persons who should be found Guilty of the species of Forgery specified in the said Proclamation.

<sup>1</sup> This report, signed by Samuel Osgood and Arthur Lee, is in the *Papers of the Continental Congress*, No. 138, I, folio 143. According to indorsement it was read August 22 and on October 11, referred to a committee.

In examining into the merits of this Claim the Board find from the Papers accompanying the same, that the Person Guilty of the Forgery was committed for the same on the 24<sup>th</sup> November, 1784, and that Joseph Abbott, the Claimant was bound over to prosecute for the said Offence; of course the benefit of the Proclamation cannot without a restrospective construction, be extended to the Claimant.

They therefore Submit to the consideration of Congress the following Resolve:

That Joseph Abbott is not entitled to the Reward offered by the Proclamation of Congress of the 2<sup>d</sup> February, 1785; the discovery of the Forgery, for which the said Reward is Claimed, having been made previous to the date of the above Proclamation.

All which is humbly submitted.<sup>1</sup>

August 21<sup>st</sup>, 1786.

OFFICE FOR FOREIGN AFFAIRS,

August 17, 1786.

<sup>2</sup> The Secretary of the United States for the Department of Foreign Affairs, in obedience to the Order of Congress directing him to state to them without delay the territorial Claims of Spain on the East side of the Mississippi, and the sentiments of France touching our right to navigate that river, Reports,

That the time allotted for this report must necessarily render it concise and summary.

It is well known that Spain claims the two Floridas, and contends that West Florida extends higher up the river Mississippi than is admitted by our Treaty with Britain, but how much higher *exactly* your Secretary is uninformed, and has reason to think that Spain has not yet made up her own mind on that point.

Spain also claims certain posts and places on the Mississippi, of which she divested the English during the war, but how far they mean to stretch their Claims

<sup>1</sup> This report, signed by Samuel Osgood and Arthur Lee, is in the *Papers of the Continental Congress*, No. 138, I, folio 1. According to indorsement it was read August 22.

<sup>2</sup> At this point Benjamin Bankson begins the entry.

over the adjacent Country, the Negotiations between Mr. Gardoqui and your Secretary have not as yet extended so minutely to that point as to enable him to determine.

On the 26 day of April, 1782, your Secretary, who was then at Madrid, wrote a Letter to the Secretary for foreign Affairs, of which the following is an Extract:

“The Madrid Gazette of the 12th March contained a paragraph of which you ought not to be ignorant; I shall therefore copy it verbatim, and add a translation as literal as I can make it.

Translation.

“By a Letter from the Commandant General of the Army of operations at the Havana and Governour of Louisiana, his Majesty has advices, that a detachment of 65 Militia men, and 60 Indians of the nations Otaguos, Sotu and Putuatami, under the command of Don Eugenio Purre, a Captain of Militia, accompanied by Don Carlos Tayon, a Sub-lieutenant of Militia, by Don Luis Chavalier, a man well versed in the language of the Indians, and by their great Chiefs Eleturno and Naquigen, which marched the 2d January, 1781, from the town of St. Luis of the Illinois, had possessed themselves of the post of St. Joseph, which the English occupied at 220 Leagues distance from that of the above-mentioned St. Luis; having suffered in so extensive a march, and so rigorous a season, the greatest inconveniences from Cold and hunger, exposed to continued risks from the Country being possessed by Savage Nations, and having to pass over parts covered with snow, and each one being obliged to carry provision for his own subsistence, and various merchandises which were necessary to content, in case of need, the barbarous nations

through whom they were obliged to cross. The Commander, by seasonable negotiations and precautions, prevented a considerable body of Indians, who were at the devotion of the English, from opposing this expedition; for it would otherwise have been difficult to have accomplished the taking of the said post. They made prisoners of the few English they found in it, the others having perhaps retired in consequence of some prior notice. Don Eugenio Purre took possession, in the name of the King, of that place and its dependencies, and of the river of the Illinois; in consequence whereof the Standard of his Majesty was there displayed during the whole time. He took the English one, and delivered it on his arrival at St. Luis to don Francisco Cruyat the Commandant of that post.

“ ‘The destruction of the magazine of provisions and goods which the English had there (the greater part of which was divided among our Indians and those who lived at St. Joseph, as had been offered them in case they did not oppose our troops) was not the only advantage resulting from the success of this expedition, for thereby it became impossible for the English to execute their plan of attacking the fort of St. Luis of the Illinois, and it also served to intimidate these savage Nations, and oblige them to promise to remain neuter, which they do at present.’ ”

“ ‘When you consider the ostensible object of this expedition, the distance of it, the formalities with which the place, the Country and the river were taken possession of in the name of his Catholic Majesty, I am persuaded it will not be necessary for me to swell this Letter with remarks that would occur to a reader of far less penetration than yourself.’ ”

This is the only circumstance or transaction which your Secretary recollects to have heard while in Spain, which induced him to suppose that his Catholic Majesty wished to acquire any Lands East of the Mississippi, except the Floridas. Neither Count de Florida Blanca, nor Mr. Gardoqui, who was then employed, nor Mr. Del Campo, ever hinted to your Secretary that a Cession of any territory was expected or desired of the United States; all that was then insisted upon was our quitting all claim to the Navigation of the Mississippi below our Territories.

When your Secretary came to Paris, in the year 1782, Count Aranda, the Spanish Ambassador there, appeared to have far other ideas on the subject. Your Secretary's conferences with him being detailed in his Letter of the 17th November, 1782, it does not appear necessary to repeat them here, nor to extract more from that Letter than merely to observe, that the Count did mark a line on a map as, and for, a proper line of boundary between Spain and the United States in that Western Country. That same Map is now in the possession of the Secretary of Congress.

Altho' your Secretary has not yet obtained from Mr. Gardoqui an exact and explicit specification of the Spanish Claims, yet he has good reason to believe that they fall very far short of those suggested by Count Aranda.

Your Secretary thinks he should not omit inserting in this report the following Extracts from a correspondence on these Subjects between the Marquis de la Fayette and Count de Florida Blanca, viz<sup>t</sup>

[From the Marquis de la Fayette to the Count de Florida Blanca, dated Madrid, 19 February, 1783.]

SIR: Having had the honor to confer with your Excellency on the objects relative to the United States, and



being soon to repair to the American Congress, I wish to be fully impressed with the result of our Conversations. Instead of the indifference, and even of the divisions which another Nation would be glad to foresee, I am happy to have it in my power to inform the United States of your good dispositions. It is to you, Sir, I am indebted for this advantage; and in order to make it compleat, and to make myself certain that I forget nothing, give me leave to submit to your Excellency the report which I intend to lay before Congress.

His Catholic Majesty desires that a lasting Confidence and harmony may subsist between him and the United States; and he is determined on his part to do every thing that will be necessary to keep it up. The American *Chargé des Affaires* is at this moment received as such, and your Excellency is going to treat of the interests of the two Nations. As you wish to shew Mr. Jay every kind of regard, you wait only till the Count de Aranda shall have notified your dispositions to him, to present Mr. Carmichael to his Majesty.

With respect to the limits, his Catholic Majesty has adopted those that are determined by the preliminaries of the 30th of November, between the United States and the Court of London. The fear of raising an object of dissention, is the only objection the King has to the free Navigation of the River Mississippi. The Virginia Tobacco, the Naval Stores, may furnish matter for reciprocal Conventions in the Treaty, and by means of the productions of America, arrangements might be made useful to her finances. When I had the honor to speak to you in favour of a diminution of the duties on Codfish, you have answered that it would be necessary to give to France a similar advantage; and that by virtue of former treaties, the English might set up pretensions to the

same. But you will do in every respect all that will be in your power to satisfy America.

I would with very great pleasure enter into every detail in which I foresee a connection between Spain and the United States, but I am not to be concerned in this happy work. The Ministers of the United States, and one whom you are going to send thither, are to make it their business; and I content myself with reminding you of the general ideas you have given me. A word from you will satisfy me that I have not forgot any thing. The dispositions of his Catholic Majesty, and the candour of your Excellency, will leave no pretence for misrepresentations. The Alliance of the house of Bourbon with the United States is founded on reciprocal interest; it will still acquire greater strength from the confidence which your Excellency wishes to establish.

Such, Sir, are the conclusions which I have drawn from our conferences, and the account which I intend to give to Congress, without having any mission for that purpose. I am acquainted with the sentiments of Congress; and I am convinced they will set a just value upon your dispositions. In permitting me to acquaint them with what I have seen, you lay a claim to my personal gratitude; I join the assurance of it to that of the respect with which I have the honor to be, &c.

[From the Count de Florida Blanca to the Marquis de la Fayette, dated 22d February, 1783.]

SIR, I cannot comply better with your desire than by asking your leave to give you here my answer. You have perfectly well understood whatever I have had the honor to communicate to you with respect to our dispositions towards the United States. I shall only add, that although it is his Majesty's intentions to

abide for the present by the limits established by the treaty of the 30th of November, 1782, between the English and the Americans, the King intends to inform himself particularly whether it can be in any ways inconvenient or prejudicial to settle that affair amicably with the United States.

I have the honor to be, &c.

On receiving the answer of the Count de Florida Blanca, I desired an explanation respecting the addition that relates to the limits. I was answered, that it was a fixed principle to abide by the limits established by the treaty between the English and Americans; that his remark related only to mere unimportant details, which he wished to receive from the Spanish Commandants, which would be amicably regulated, and would by no means oppose the general principle. I asked him before the Ambassador of France, whether he would give me his word of honor for it; he answered me he *would*, and that I might engage it to the United States.

(Signed)

LA FAYETTE.

Madrid, 22d February, 1783.

Your Secretary showed these Extracts to Mr. Gar-doqui. He wrote to his Minister about them; and has since told your Secretary that the Marquis misunderstood the Count. From these and similar facts and circumstances, your Secretary is led to believe, that, all other matters being first settled, Spain may be prevailed upon to confine these improper claims within a small compass; for as she has not yet delineated them by metes and bounds, she may diminish them without hurting her pride.

As to the Sentiments of France, touching our right to navigate the Mississippi, your Secretary began at an early period to believe, and still thinks, that the Court of France will not admit it.

He well recollects that Mr. Gerard, while at Philadelphia, treated it as being ill founded, and promoted measures for a dereliction of it.

He finds among the Communications made by the Chevalier de la Luzerne, one reported by a Committee of Congress, in January, 1780,<sup>1</sup> which in his opinion merits consideration, viz<sup>t</sup>

“The Committee appointed to receive the communications from the Minister plenipotentiary of France, report, that, on their second Conference with him, he communicated to them—

“That His Most Christian Majesty being uninformed of the appointment of a Minister plenipotentiary to treat of an Alliance between the United States and his Catholic Majesty, signified to his Minister plenipotentiary to these United States, that he wishes most ardently for such an Alliance; and in order to make the way thereto more easy, commanded him to communicate to Congress certain Articles which his Catholic Majesty deems of great importance to the interests of his Crown, and on which it is highly necessary that these United States explain themselves with precision, and with such moderation as may consist with their essential rights.

“That the Articles are,

“1. A precise and invariable Western Boundary to the United States.

“2. The exclusive Navigation of the river Mississippi.

<sup>1</sup> See *ante*, January 31, 1780.

“3. The possession of the Floridas.

“4. The lands on the left or eastern side of the river Mississippi.

“That on the first Article, it is the idea of the Cabinet of Madrid, that the United States extend to the westward no farther than settlements were permitted by the royal Proclamation bearing date the            day of            1763.<sup>1</sup>

“On the second, that the United States do not consider themselves as having any right to navigate the river Mississippi, no territory belonging to them being situated thereon.

“On the third, that it is probable the King of Spain will conquer the Floridas during the course of the present war; and in such event every cause of dispute relative thereto between Spain and these United States ought to be removed.

“On the fourth, that the lands lying on the east side of the Mississippi, whereon the settlements were prohibited by the aforesaid Proclamation, are possessions of the Crown of Great Britain, and proper objects against which the Arms of Spain may be employed for the purpose of making a permanent conquest for the Spanish Crown. That such Conquest may probably be made during the present war. That therefore it would be advisable to restrain the Southern States from making any settlements or Conquests in those territories.

“That the Council of Madrid consider the United States as having no Claims to those territories, either as not having had possession of them before the present war, or not having any foundation for a claim in the right of the Sovereign of Great Britain, whose dominion they have abjured.

<sup>1</sup> October 7, 1763. See *ante*, October 17, 1780.



“That his Most Christian Majesty, united to the Catholic King by blood and by the strictest Alliances, and united with these States in treaties of Alliance, and feeling towards them dispositions of the most perfect friendship, is exceedingly desirous of conciliating between his Catholic Majesty and these United States the most happy and lasting friendship. That the United States may repose the utmost confidence in his good will to their interests, and in the justice and liberality of his Catholic Majesty; and that he cannot deem the revolution which has set up the Independence of these United States as past all danger of unfavorable events, until his Catholic Majesty and the said States shall be established on those terms of Confidence and Amity, which are the objects of his Most Christian Majesty’s very earnest wishes.’ ”

That in 1782, at Paris, your Secretary received and transmitted to Congress a Memoir of Monsieur de Rayneval, the first Secretary of Count de Vergennes, on the subject of our Western Claims. That Paper was not official. The following is a translation of it:

“IDEA

“On the manner of determining and fixing the limits between Spain and the United States on the Ohio and the Mississippi.

“The question between Spain and the United States of North America is, how to regulate the respective limits towards the Ohio and the Mississippi. The Americans pretend that their dominion extends as far as the Mississippi; and Spain maintains the contrary.

“It is evident that the Americans can only borrow from England the right they pretend to have to extend as far as the Mississippi: therefore, to determine this

right, it is proper to examine what the Court of London has thought and done on this head.

“It is known that before the treaty of Paris, France possessed Louisiana and Canada; and that she considered the savage people situated to the east of the Mississippi either as independent, or as under her protection.

“This pretension caused no dispute. England never thought of making any, except as to the lands situated towards the South of the Ohio, in that part where she had given the name of Allegany to that river.

“A discussion about limits at that time took place between the Court of Versailles and London; but it would be superfluous to follow the particulars. It will suffice to observe, that England proposed, in 1755, the following boundary: It set out from the point where the River des Bœufs falls into the Ohio, at the place called Venango; it went up this river towards Lake Erie as far as 20 leagues; and setting off again from the same place, Venango, a right line was drawn as far as the last mountains of Virginia, which descend towards the Ocean. As to the Savage tribes situated between the aforesaid line and the Mississippi, the English Minister considers them as independent; from whence it follows, that according to the very propositions of the Court of London, almost the whole course of the Ohio belonged to France; and that the Countries situated to the Westward of the mountains were considered as having nothing in common with the Colonies.

“When peace was negotiated, in 1761, France offered to make a Cession of Canada to England. The regulation of the limits of this Colony and Louisiana was in question. France pretended that almost the whole course of the Ohio made a part of Louisiana; and the

Court of London, to prove that this river belonged to Canada, produced several authentic papers, among others the Chart which Mr. Vaudreuil delivered to the English Commandant when he abandoned Canada. The Minister of London maintained, at the same time, that a part of the Savages situated to the eastward of the Mississippi were independent; another part under its protection; and that she had purchased a part from the 5 Iroquois Nations. The misfortunes of France cut these discussions short. The treaty of Paris assigned the Mississippi for the boundary between the possessions of France and Great Britain.

“Let us see the dispositions which the Court of London has made in consequence of the treaty of Paris.

“If she had considered the vast territories situated to the eastward of the Mississippi as forming part of her ancient Colonies, she would have declared so, and have made dispositions accordingly. So far from any such thing, the King of England, in a Proclamation of the month of October, 1763, declares in a precise and positive manner, that the lands in question are situated between the Mississippi and the *ancient english establishments*. It is therefore clearly evident that the Court of London itself, when it was as yet Sovereign of the thirteen colonies, did not consider the aforementioned lands as forming part of these same Colonies; and it results from this in the most demonstrative manner, that they have not at this time any right over these lands. To maintain the contrary, every principle of the laws of Nature and Nations must be subverted.

“The principles now established are as applicable to Spain as to the United States. This power cannot extend its claim beyond the bounds of its conquests; she cannot therefore pass beyond the Natches, situated

towards the 31 degree of latitude: her rights are therefore confined to this degree; what is beyond is either independent, or belonging to England; neither Spain nor the Americans can have any pretensions thereto. The future treaty of peace can alone regulate the respective rights.

“The consequence of all that has been said is, that neither Spain nor the United States have the least right of Sovereignty over the Savages in question; and that the transactions they may carry on as to this Country would be to no purpose.

“But the future may bring forth new circumstances; and this reflection leads me to suppose that it would be of use that the Court of Madrid and the United States should make an eventual arrangement.

“This arrangement may be made in the following manner: A right line should be drawn from the eastern angle of the gulf of Mexico, which makes the section between the two Floridas, to fort Toulouze, situated in the Country of the Alibamons; from thence the River Loueshatchi should be ascended, from the mouth of which a right line should be drawn to the fort or factory Quenassie; from this last place the course of the river Euphasee is to be followed till it joins the Cherokee; the course of this last river is to be pursued to the place where it receives the Pelissippi; this last to be followed to its source; from whence a right line is to be drawn to Cumberland river, whose course is to be followed until it falls into the Ohio. The Savages to the west of the line described should be free, under the protection of Spain; those to the eastward should be free, and under the protection of the United States; or rather the Americans may make such arrangements with them as is most convenient to themselves. The trade should be free to both parties.



“By looking over the Chart we will find that Spain would lose almost the whole course of the Ohio; and that the establishments which the Americans may have on this river would remain untouched; and that even a very extensive space remains to form new ones.

“As to the course of Navigation of the Mississippi, they follow with the property, and they will belong therefore to the Nation to which the two banks belong. If then by the future treaty of peace Spain preserves West Florida, she alone will be proprietor of the course of the Mississippi, from the 31 degree of latitude until [to] the mouth of this river. Whatever may be the case with that part which is beyond this point to the North, the United States of America can have no pretensions to it, not being Masters of either border of this river.

“As to what respects the lands situated to the Northward of the Ohio, there is reason to presume that Spain can form no pretensions thereto. Their fate must be regulated by the Court of London.”

Your Secretary also thinks, that the sentiments of the Court of France on the subject in question may be gathered from a Conference between him and their Ambassador's Secretary, who called upon him by the Ambassador's direction, at Madrid, on the 11th day of September, 1780; the particulars of which are contained in his Letter of 6th November. The following is an Extract from it.

“On the 11th September, the French Ambassador's Secretary called upon me by the Ambassador's direction, to inform me that an Express was going to Paris, and to know whether any thing further had been done in our affairs since he had seen me. I told him things continued in the same situation. He again commenced a Conversation on the subject; and as he came directly from the Ambassador, I entered into it. He expressed



some concern for the delays I met with. I told him such things must be expected. He said he hoped I was content with France. I replied that I apprehended France considered an interference in our Negotiation as a delicate matter, for that as she had probably held up the exclusive Navigation of the Mississippi and Gulf of Mexico, among other objects, to induce Spain to take part in the war, she might hesitate about pressing Spain into a treaty with us on terms that would not comprehend this object. He said, Mr. Gerard had reasoned well about those matters, but that he did not believe France would be backward, nor indeed that she had promised this to Spain, to bring her into the war. I told him I should not be surprised to find that the delay arose from a desire of hearing further news from America, and probably from *Philadelphia*. He said that could not be the case, for since Mr. Miralle's death, Spain had no person there to give them intelligence. I told him that Spain might be waiting the issue of new Motions respecting the Mississippi, in Congress; and that I was sure Count de la Luzerne would readily be at the trouble of communicating to them any interesting information on *that*, or any other Subject. Whether he drew any conclusions from the manner in which this was said, I can't say, but, in a way that looked like exculpating that Minister, he told me that Count de la Luzerne had only mentioned to the French Ambassador, that two Members of Congress with whom he had talked over the affair of the Mississippi, thought it would be best not to bring on the question of the Navigation until Spain should become possessed of the adjacent Country, for that *then* it might be ceded with a better grace. He mentioned no names."

These facts and papers, in the opinion of your Secretary, afford much evidence of the sentiments entertained by the Court of France respecting our right to navigate the Mississippi prior to, and at the time of the peace.

Whether they have adopted new opinions in that point, your Secretary cannot decide. He has however no reason to believe that has been the case, for he can perceive no reason why such an alteration in their sentiments should have taken place. On the contrary, it seems from Mr. Jefferson's letter of the 23d May last, that the Minister is not ready to admit all our Claims as ascertained by the treaty of peace to be within their Guarantee. He intimated that all our limits were not fixed; and your Secretary thinks that the Minister could have meant to allude only to our western limits and Claims. Britain disputes no boundaries with us, unless perhaps part of our Eastern; and those disputes had not yet been brought before the french Court; but Spain still adheres to pretensions of which France had been long and well informed, and therefore your Secretary supposes the Minister then had those in view.

Your Secretary sincerely wishes that the event may not confirm his opinion, and that the Court of France may clearly admit all our Claims, and particularly that to navigate the Mississippi, to be well founded, and to be within the terms, intent and meaning of the Guarantee.<sup>1</sup>

<sup>1</sup> This proceeding, in the writing of Benjamin Bankson, is entered only in *Secret Journal, Foreign*, No. 5. Through an evident pen slip it is dated as of August 10. Jay's original report is in No. 81, II, folio 217 and is indorsed: "Report of Secretary for foreign Affairs in pursuance of the order of Congress of 10<sup>th</sup> Aug. 1786. Read 22<sup>d</sup> Aug<sup>t</sup> 1786."

## OFFICE OF SECRETARY OF CONGRESS,

August 22, 1786.

On the memorial of James Easton stating his services and that in 1779 when he was discharged he received this pay and disbursements, in Continental paper currency which was then depreciated more than 14 for one, that he is reduced to extreme distress and praying Congress to take his case into consideration and give such order thereon as to their wisdom seems meet,

The Secretary of Congress reports: That on the 30 July, 1776, on a petition of Col. J. Easton and major Brown praying that the charges against them of having been concerned in plundering the officers baggage taken at Sorrel might be submitted to a court of Enquiry, Congress was pleased to order such a court. That two days after viz., August 1, 1776, Congress resolved that James Easton was entitled to the rank of a col. in the cont. Army from July 1, 1775, and to the pay of a col. from that day until he should be discharged, which ought to be done as soon as a court of Enquiry should report in his favour or a court martial sho'd determine upon his conduct and their sentence was carried into execution. That on 16 July, 1779, it appearing to Congress that no such enquiry or court martial had been held, that though it was the duty of col. Easton to have procured such a court to sit or if that had been found impracticable to have informed Congress thereof, it not appearing that he had done or attempted to do either but contently drew his pay to that time Congress thereupon resolved That Col. James Easton be dismissed from the service of the United States.

Agreed to Aug. 22. On this state of facts the Secretary of Congress reports: That James Easton have leave to withdraw his memorial.<sup>1</sup>

<sup>1</sup> This proceeding was entered by Charles Thomson in *Reports of the Secretary of Congress*, No. 180. Easton's petition, with its accompanying papers, was withdrawn June 17, 1788; a copy of it was made by Roger Alden and is in No. 41, III, folio 131.

Also, according to indorsement, was read a letter from the Secretary for Foreign Affairs, forwarding a letter from A. Fowler, giving a list of American vessels arrived at Madeira. Jay's letter is in No. 80, III, folio 49. Fowler's is in No. 78, IX, folio 555.

WEDNESDAY, AUGUST 23, 1786.

Congress assembled. Present, as before.

Congress went into a committee of the whole, and after some time the president resumed the chair, and Mr. [John] Bull reported, that the committee of the whole have taken into consideration the subjects referred to them, and have come to a resolution thereon, which he was ordered to report.

The report of the committee of the whole being read: <sup>1</sup>

*Ordered*, That it be taken into consideration on Monday next.

On the report of a committee, consisting of Mr. [William] Henry, Mr. [Rufus] King and Mr. [Lambert] Cadwallader, to whom was referred a report of the board of treasury, relative to the issue of Indents to the State of Pennsylvania,

*Resolved*, That the acts of Congress of the 27 and 28 of April, 1784, do not authorise any State to pay certificates or discounts of interest, on the domestic debt, to an amount exceeding one quarter part of the sums or balances then due from the several States to complete a moiety of the requisition of the 30 of October, 1781, for eight Millions of dollars.

*Resolved*, That the board of treasury be, and hereby are authorised and directed to give orders for the continuation of the issue of indents of Interest in the State of Pennsylvania, agreeably to the requisition of the 27 September last; provided that such emission of Indents be not considered as warranting that construction of the requisition of the 27 and 28 of April, 1784, which the State has thought proper to make, and by which construction \$6,658 dollars in specie, due to the United States upon that requisition, has not been provided for in the legislative Act of the said State of the 8 of March last.

<sup>1</sup> The report of the Committee of the Whole is spread on the Journals of August 28.



According to order, Congress took into consideration the report of the committee, on the letter of the 16, from his Excellency the governor of New York, and the first resolution, reported by the committee, being amended and passed, and the second amended so as to read, "the United States in Congress assembled, did on the 11th day of the present month, and still do deem, &c." a Motion was made by the delegates of New York, to postpone the second and third resolutions, in Order to take up the following:

Whereas the governor of the State of New York, in answer to the recommendation of Congress of the 11th instant, hath signified to Congress, that he cannot, in his opinion, consistent with the constitution of the said state, convene the legislature thereof for the purpose specified in the said resolve, as appears by his letter to his excellency the President, dated the 16th, in the words following: "New York, 16 August, 1786. Sir, I take the liberty of addressing this to your excellency, to acknowledge the receipt of the resolution of the United States in Congress assembled, of the 11th instant, transmitted to me yesterday by their Secretary, recommending to the executive of this State immediately to convene the legislature, to take into consideration the recommendation of the 18 of April, 1783. I beg leave to assure your Excellency, that I entertain the highest deference and respect for the Authority of Congress, and that it will always afford me great pleasure to have it in my power to comply with their recommendations: But in the present case, permit me to observe, that I have not power to convene the legislature before the time fixed by law for their stated Meeting, except on extraordinary occasions; and as the present business proposed for their consideration has already been repeatedly laid before them, and so recently as at their last session received their determination, it cannot come within that description. A copy of their act passed on the occasion, I have had the honour of laying before Congress through the delegates of this State, and your Excellency will readily perceive it is not my province to determine how far it conforms to the Recommendation in question. I cannot conclude without adding, that I feel myself unhappy to be formally called on by Congress, in an instance in which I cannot yield a compliance without breaking through one of those checks which the wisdom of our Constitution has provided against the abuse



of Office, and which, I am persuaded, Congress will approve the sentiment, when I declare, I find myself bound, as well by inclination as by duty, to preserve. I have the honor to be, with the highest respect, your Excellency's most obedient Servant, Geo. Clinton:" Therefore *Resolved*, That to repeat the recommendation of Congress to the supreme executive of the State of New York, on this subject, would be inexpedient."<sup>1</sup>

On the question to postpone for the purpose abovementioned, the yeas and nays being required by Mr. [Melancton] Smith,

<i>New Hampshire,</i>			<i>Pennsylvania,</i>		
Mr. Livermore,	no	}no	Mr. Bayard,	no	}no
Long,	no		St. Clair,	no	
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Gorham,	no	}no	Mr. Henry,	no	}no
King,	no		Harrison,	no	
<i>Rhode Island,</i>			Ramsay,	no	
Mr. Manning,	no	}no	<i>Virginia,</i>		
Miller,	no		Mr. Carrington,	no	}no
<i>Connecticut,</i>			Lee,	no	
Mr. Johnson,	no	}no	<i>North Carolina,</i>		
Sturges,	no		Mr. Bloodworth,	no	}no
<i>New York,</i>			White,	no	
Mr. Lawrance,	ay	}ay	<i>South Carolina,</i>		
Haring,	ay		Mr. Bull,	no	}no
Smith,	ay		Pinckney,	no	
<i>New Jersey,</i>			Huger,	no	
Mr. Cadwallader,	no	}no	<i>Georgia,</i>		
Symmes,	no		Mr. Houstoun,	no	}no
Hornblower,	no		Mr. Few,	no	

So it passed in the negative.

<sup>1</sup> This resolve, in the writing of Melancton Smith, is in the *Papers of the Continental Congress*, No. 36, IV, folio 61. It quotes the resolve of the 11th instant and has the following words lined out in the resolve after Clinton's letter: "would be improper as it would involve an interference of Congress on a question respecting the construction of the Constitution of that State upon which Congress have by the Confederation no right to decide, will probably lead this house into a dispute with the supreme executive of the State of New York and disgust the Legislature thereof." Clinton's letter is in No. 67, II, folio 539.

On the question to agree to the second resolution as amended, the yeas and nays being required by Mr. [John] Haring,

<i>New Hampshire,</i>			<i>Pennsylvania,</i>		
Mr. Livermore,	ay	}	Mr. Bayard,	ay	}
Long,	ay		St. Clair,	ay	
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Gorham,	ay	}	Mr. Henry,	ay	}
King,	ay		Harrison,	ay	
<i>Rhode Island,</i>			Ramsay,	ay	
Mr. Manning,	ay	}	<i>Virginia,</i>		
Miller,	ay		Mr. Carrington,	ay	}
<i>Connecticut,</i>			Lee,	ay	
Mr. Johnson,	ay	}	<i>North Carolina,</i>		
Sturges,	ay		Mr. Bloodworth,	ay	}
<i>New York,</i>			White,	ay	
Mr. Lawrance,	no	}	<i>South Carolina,</i>		
Haring,	no		Mr. Bull,	ay	}
Smith,	no		Pinckney,	ay	
<i>New Jersey,</i>			Huger,	ay	
Mr. Cadwallader,	no	}	<i>Georgia,</i>		
Symmes,	no		Mr. Houstoun,	ay	}
Hornblower,	ay		Few,	ay	

So it was resolved in the affirmative.

On the question to agree to the third resolution, the yeas and nays being required by Mr. [Melancton] Smith,

<i>New Hampshire,</i>			<i>Pennsylvania,</i>		
Mr. Livermore,	ay	}ay	Mr. Bayard,	ay	}ay
Long,	ay		St. Clair,	ay	
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Gorham,	ay	}ay	Mr. Henry,	ay	}ay
King,	ay		Harrison,	ay	
<i>Rhode Island,</i>			Ramsay,	ay	
Mr. Manning,	ay	}ay	<i>Virginia,</i>		
Miller,	ay		Mr. Carrington,	ay	}*
<i>Connecticut,</i>			<i>North Carolina,</i>		
Mr. Johnson,	ay	}ay	Mr. Bloodworth,	no	}no
Sturges,	ay		White,	no	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Lawrance,	no	}no	Mr. Bull,	ay	}ay
Haring,	no		Pinekney,	ay	
Smith,	no		Huger,	ay	
<i>New Jersey,</i>			<i>Georgia,</i>		
Mr. Cadwallader,	ay	}ay	Mr. Houstoun,	ay	}ay
Hornblower,	ay		Few,	ay	

So it was resolved in the affirmative, and the whole was agreed to as follows:

The committee, consisting of Mr. [William Samuel] Johnson, Mr. [Rufus] King, Mr. [Charles] Pinckney, Mr. [James] Monroe and Mr. [William] Grayson, to whom was referred a letter from his excellency the governor of New York, of the 16, having reported,

That they have examined an Act passed by the state of New York, on the 4 day of May last, entitled "An Act for giving and granting to the United States in Congress assembled, certain imposts and duties on foreign goods imported into that state, for the special purpose of paying the principal and interest of the debt contracted in the prosecution of the late war with great Britain:" That by the act of Congress of the 18th of April, 1783,<sup>1</sup> it is recommended to the several States as indispensably necessary to the restoration of public credit,

<sup>1</sup> At this point Roger Alden takes up the entry.

and to the punctual and honourable discharge of the public debts, to invest the United States in Congress assembled, with a power to levy certain duties upon goods imported into the United States; provided that the collectors of the said duties should be appointed by the states within which their offices are to be respectively exercised, but when so appointed, to be amenable to and removable by the United States in Congress assembled alone. The committee conceive that the investing the United States in Congress assembled with this power, which includes that of forming the necessary regulations,<sup>1</sup> or revenue laws, with suitable penalties, of declaring the money in which the said duties shall be received, of establishing the number of revenue Officers, and ascertaining their duties, has been, and must be considered as an essential part of the plan submitted to the several states for their adoption: The exercise of this power by thirteen separate Authorities would introduce different laws upon the same subject, ordain various penalties for the same offence, destroy the equality of the tax, and might, in a great measure, defeat the revenue. All the states, except New York, having in pursuance of the Recommendation of the 18 of April, 1783, granted the impost by acts vesting this power, with certain qualifications, exclusively in the United States in Congress assembled; the long continued embarrassments of the public finances, and the indispensable demands of the federal government, dictate the necessity of an immediate and unanimous adoption on this measure. Impressed with these opinions, the Committee have carefully examined the act of the state of New York, and submit the following remarks: 1st. That several of the states which have passed acts investing the United States in Congress assembled, under certain restrictions, with power to levy the duties on goods imported into the United States, agreeably to the recommendation of the 18 of April, 1783, have inserted in their acts express conditions that the same shall not be in force, or begin to operate until all the states in the Confederacy have passed acts vesting the United States in Congress assembled, with power to levy in the several states, like duties. 2d. That the act of the state of New York, does not invest the United States in Congress assembled, with power to levy in that state the duties therein mentioned; but reserves to the state of New York, the sole power of levying and collecting the same in the manner directed in and by an act of that state, entitled "An act imposing duties on

<sup>1</sup> At this point Charles Thomson resumes the entry.

certain goods, wares and merchandize imported into the said state, passed the 18 day of November, 1784, and consequently prevents the operation of the impost in those states which have made the exercise of this power by the United States in Congress assembled, an indispensable and express condition of their grants. 3d. That the said act does not make the collectors of the said duties amenable to, and removable by the United States in Congress assembled; but ordains, that upon conviction before the supreme court of Judicature, or in the court of exchequer of the state of New York, for any default or neglect in the execution of the duties required of them by the said act, or by an Act of that state, entitled "An act imposing duties on certain goods, wares and merchandize imported into the said state," they shall be removed from office, and others appointed instead of the persons so convicted; which is a material departure from the plan recommended by Congress. 4th. That by an Act of the state of New York,<sup>1</sup> entitled "An act for emitting the sum of two hundred thousand pounds, in bills of credit, for the purposes therein mentioned," passed the 18th April, 1786, it is among other things enacted, "That gold and silver, and the bills of credit emitted by virtue of the said act, shall be received by the collector for duties arising on goods, wares and merchandise imported into the said State, after the passing of the said act," in consequence whereof, admitting that the System of a general Impost, could be put in operation, it would remain optional with the importer to pay the duties on goods imported into the State of New York, in specie, or bills of credit, emitted by virtue of the aforesaid act. 5th. If bills of credit of the State of New York should be received from the importer in that State, upon the principles of equal Justice, bills of credit emitted by any other State, must be received from the importer of goods in such State, and thereby instead of the system yielding a sum in actual money, nothing but paper would be brought into the federal treasury, which would be wholly inapplicable to the payment of any part of the Interest or principal of the foreign debt of the United States; thereupon,

*Resolved,* That the Act of the state of New York, entitled "An Act for giving and granting to the United States in Congress assembled, certain <sup>2</sup> imposts and duties on foreign goods imported into that state, for the special purpose of

<sup>1</sup> Roger Alden here resumes the entry.

<sup>2</sup> Charles Thomson here resumes the entry.



paying the principal and interest of the debts contracted in the prosecution of the late war with Great Britain," so essentially varies from the system of impost recommended by the United States in Congress assembled, on the 18th day of April, 1783, that the said act is not, and cannot be considered as a compliance with the same, so as to enable Congress, consistently with the acts of the other states, to bring the system into operation.

*Resolved*, That the present critical and embarrassed situation of the finances of the United States is such, as to require, that the system of impost should be carried into immediate effect. That New York being the only State which has not yet adopted the same, the United States in Congress assembled, did on the 11 day of the present month, and still do, deem this an occasion sufficiently important and extraordinary, to request that the legislature of the said state should be convened, for the purpose of taking the said system into their immediate and serious consideration, and granting the same, in the manner recommended by the resolution of the 18 April, 1783.

*Resolved*, That it be again earnestly recommended to the executive of the State of New York, immediately to convene the legislature of the said state, to take into their consideration, the recommendation of the 18 April, 1783, for the purpose of granting the system of impost in such conformity with the acts and grants of the other states, as on their part to enable the United States in Congress assembled, to carry the same into effect.<sup>1</sup>

<sup>1</sup> See *post*, August 29.

AUGUST 23: The report, in part, of the committee of July 13 on "their report on temporary government for Western territory and Petition of Inhabitants of Kaskasies" was submitted. It was read this day and agreed to August 24 where it is spread verbatim on the Journal. See *post*, September 18. The petition from Kaskasies, dated November 10, 1784, and attested by a notary May 29, 1786, is in No. 41, V, folio 113. It was forwarded to Congress by letter from the Secretary for Foreign Affairs, August 23, 1786, which is in No. 80, III, folio 53, and was read August 23.

THURSDAY, AUGUST 24, 1786.

Congress assembled. Present as before.

On the report of a committee, consisting of Mr. [William Samuel] Johnson, Mr. [John Cleves] Symmes and Mr. [James] Manning, to whom was referred a letter from lieutenant colonel Harmar to the Secretary at War, together with another letter from Mr. Etwein to the Secretary of Congress, both relative to the Moravian Indians:

*Resolved*, That the secretary at war give orders to lieutenant-colonel Harmar, that he signify to the Moravian Indians, lately come from the river Huron to Cayahoga, that it affords pleasure to Congress to hear of their arrival, and that they have permission to return to their former settlement on the Muskingum, where they may be assured of the friendship and protection of the United States; and that lieutenant colonel Harmar supply the said Indians, after their arrival at Muskingum, with a quantity of Indian corn, not exceeding five hundred bushels, out of the public stores on the Ohio, and deliver the same to them at fort McIntosh, as soon after next Christmas as the same may be procured; and that he

The petition of John Lesure for pay and rations due him, was referred to the Commissioner of Army Accounts to report and a report rendered August 28. The petition is in No. 42, IV, folio 400.

The "letter of 22 with the petitions enclosed from R. Lawrence, Thos. Mullenox, W. Hunt, John Hulett and Chas. Hulett" were referred to the Secretary for Foreign Affairs to report. He reported on Lawrence March 15, 1787. Jay's letter is in No. 81, II, folio 149; the petitions follow it. According to indorsement the letter was read and referred August 22. The petitioners complain of actions at law contrary to the treaty of peace with Great Britain. Lawrence's petition is in No. 42, IV, folio 442.

*Committee Book No. 190.*

Also, according to indorsement, was read a report from the Secretary of Foreign Affairs, dated August 23, on the note from the Minister of the United Netherlands respecting the Dutch creditors of De la Lande & Fynje and advising that the Minister be informed that the federal government cannot interfere in matters of a purely State character. According to *Committee Book No. 189*, this report was this day transferred. Jay's letter is in No. 81, II, folio 169, and is indorsed as "transmitted to the Office S: f: Aff<sup>rs</sup> Nov: 6, 1787."

furnish the said Indians with twenty Indian axes, twenty corn hoes, and one hundred blankets; and that the board of treasury and Secretary at War take order to carry the above into effect.

On a report of a committee, consisting of Mr. [James] Monroe, Mr. [William Samuel] Johnson, Mr. [Rufus] King, Mr. [Charles] Pinckney and Mr. [Melancton] Smith, to whom was referred a petition from the inhabitants of Kaskaskies, for the organization of a government over the said district,

*Ordered*, That the secretary of Congress inform the Inhabitants of Kaskaskies, that Congress have under their consideration the plan of a temporary government for the said district, and that its adoption will be no longer protracted than the importance of the subject and a due regard to their Interest may require.<sup>1</sup>

<sup>1</sup> This report, in the writing of James Monroe, is in the *Papers of the Continental Congress*, No. 30, folio 491. The rest of the business was considered September 19. See *post*, September 18.

AUGUST 24: The following committee was appointed: Mr. [Rufus] King, Mr. [Charles] Pinckney and Mr. [John] Bull, on "The report on carriage of the mail and establishing Cross posts and the postmaster gen<sup>l</sup> report thereon." A report was rendered September 4.

A "Letter of 19 Aug., 1786, Geo. Read with an Act of the State of Delaware" was referred to the Board of Treasury to report.

"Two Motion for a final adjustment with O. Pollock and payment of the balance found due to him and letter of 11 May, 1786, from Sec<sup>y</sup> for for<sup>a</sup> Aff<sup>rs</sup> with note of s<sup>d</sup> date from Mr. Gardoqui touching the payment of the sum due by O. Pollock" was referred to the Board of Treasury to report and report rendered October 3.

*Committee Book No. 190.*

Also, according to indorsement, was read a memorial of Colonel David Henley. See *post*, August 25.

Also, a letter from George Read, of April 8, was read, thanking Congress for its approbation of his conduct regarding the judges of the Court of Appeals. It is in No. 78, XIX, folio 547.

FRIDAY, AUGUST 25, 1786.

Congress assembled. Present as before.

On the report of a committee consisting of Mr. [Edward] Carrington, Mr. [Charles] Pinckney and Mr. [Nathan] Miller to whom was referred a memorial of Marinus Willett, report as follows:

Reconsidered  
Aug. 28, 1786.

It appears to your Com. that the condition annexed by Congress to the Act for taking into the pay of the U. S. the Regiment of Militia commanded by the said Marinus Willett, viz "that the State of New York should fill up their quota of Troops for the Continental Army, could be for no other purpose than to guard the said U. S. from paying the said Regiment while, from deficiencies of men in the Continental line of the said State many idle officers might be also drawing pay, and, as the Arrangement of the Army under the Resolutions of the 7<sup>th</sup> of August, 1782, which took effect on the 1<sup>st</sup> of January, 1783, put out of pay all Officers not actually employed, the reasons of the said condition ceased at the latter period to exist. It is therefore the opinion of your Com. that as the claims of the said Regiment for arrears of pay are for actual services subsequent to the 1<sup>st</sup> of January, 1783, and do not extend to the commutation, the same ought to be allowed, whereupon the following Resolution is proposed:

*Resolved*, That the commissioner of army accounts settle with the regiment of Militia late commanded by Marinus Willett for all arrears of pay and subsistence due the same while in the actual service of the United States in the year 1783.<sup>1</sup>

[OFFICE OF THE SECRETARY OF CONGRESS,]

*August 25, 1786.*

On the memorial of the Grasshopper Chief Counsellor of the Oneida Indians stating his attachment to the Cause of America his losses in Consequence thereof and the promises made to him in behalf of the U. States and praying Congress in reward of his services to do some-

<sup>1</sup> This report, in the writing of Edward Carrington, is in the *Papers of the Continental Congress*, No. 19, VI, folio 559. According to indorsement it was read this day and agreed to "reconsidered Aug. 28, 1786. Acted on March 21, 1787, from report of B<sup>d</sup> of treasury."



thing for him to make his old age comfortable, the Secretary of Congress reports:

Aug. 25 agreed. That the Memorial of the Grasshopper be referred to the Secretary at War to report.

On the memorial of David Henley late col. in the Army of the United States, representing his services, that he never resigned nor was deranged and praying to be allowed Commutation in lieu of half pay as granted to other Officers of the Army, the Secretary of Congress reports: That the Memorial of David Henley late a

Agreed Aug. 25. col. in the Army be referred to the Commissioner of Army Accounts to report.<sup>1</sup>

That the petition of Richard Damry be referred to the Commissioner of Army Accounts to enquire into the truth of the facts stated in the said petition and if it shall be proved to his Satisfaction that the detention of the petitioner by the British after the close of the war prevented his Application for a settlement prior to the time fixed by the resolution of 2 Nov<sup>r</sup> 1785, that the said Commiss<sup>r</sup> settle with the petitioner in the usual manner the said resolution notwithstanding.<sup>2</sup>

#### MONDAY, AUGUST 28, 1786.

Congress assembled. Present as before.<sup>3</sup>

IN CONGRESS.

AUGUST 28, 1786.

Congress took into consideration the report of a committee of the whole, to whom were referred the letter of

<sup>1</sup> These reports were entered by Thomson in *Reports of the Secretary of Congress* No. 180. According to *Committee Book No. 190*, the report on Henley's memorial was rendered August 26. It is in No. 41, IV, folio 366. According to indorsement it was acted on September 5.

<sup>2</sup> This motion, in the writing of Charles Thomson, is in the *Papers of the Continental Congress*, No. 36, 111, folio 297. According to indorsement it was referred August 25 to the Commissioner of Army Accounts to take Order.

AUGUST 25: The letter of the Commissioner of Army Accounts, dated August 24, "relative to depreciation due to sundry individuals of Whitcomb's Independent corps" was referred back to the Commissioner to take order.

The report of the Board of Treasury on Oliver Pollock's accounts and the letter of the Board of August 24 was referred back to the Board.

*Committee Book No. 190.*

<sup>3</sup> According to *Committee Book No. 189* the report on the memorial of Marinus Willett was, this day, transferred. See *ante*, August 25.



the 29 of May, and the speech of the Secretary for foreign Affairs; which report being as follows:

“August 23, 1786. In committee of the whole. Agreed to report to Congress the following resolutions.

“*Resolved*, That so much of the resolution of Congress of the 25 day of August, 1785, being an instruction to the Secretary of the United States for the department of foreign affairs, as are contained in the following words, namely, And that the following be substituted in its place, ‘that the Secretary to the U. S. for the department of foreign affairs be and hereby is instructed, in his plan of a treaty with the encargado de Negocios of his catholic Majesty, particularly to stipulate the right of the U. S. to their territorial bounds, and the free navigation of the Mississippi from the source to the Ocean, established in their treaties with Great Britain; and that he neither conclude nor sign any treaty, compact or convention with the said encargado de Negocios until he hath previously communicated it to Congress and received their approbation,’ ” be, and the same is hereby repealed and made void.

“*Resolved*, That the secretary of the U. S. for the department of foreign affairs be and hereby is instructed, if in the course of his negotiation with the encargado de Negocios of his catholic Majesty, it shall be found indispensable for the conclusion of the same, that the U. S. and their citizens, for a limited time, should forbear to use so much of the river Mississippi as is south of the southern boundary of the U. S., that he be and hereby is authorized and directed, on behalf of the United States, to consent to an article or articles stipulating on their part and that of their citizens a forbearance of the use of the said river Mississippi, for a period not exceeding        years, from the point where the southern

boundary of the U. S. intersects the said river, to its mouth or the Ocean; provided that such stipulation of a forbearance of the use of the said river for a limited time as aforesaid, shall not be construed to extinguish the right of the U. S., independent of such stipulation, to use and navigate the said river from its source to the Ocean; provided farther, that the Secretary of foreign Affairs shall not stipulate on behalf of the U. S., in favour of the exclusive navigation and use of the said river Mississippi by his Catholic Majesty and his subjects, below its intersection of the southern boundary of the U. S., unless it shall be agreed and stipulated in the same treaty, that the navigation and use of the said river from the intersection aforesaid to its head or source be and continue common to the U. S. and his Catholic Majesty and to their respective citizens and subjects. And the said secretary of foreign Affairs is hereby farther instructed, firmly to insist on the territorial boundaries of the United States southwardly and westwardly, as fixed by the definitive treaty of peace and friendship between the U. S. of America and his Britannic Majesty; and on no condition to consent to a treaty, unless the same shall contain a quit claim of all pretended rights and claims of his catholic Majesty to territory within the U. S. eastwardly of the Mississippi and northerly of the Floridas; whether the said rights or claims are pretended in virtue of conquest or otherwise. And if in the course of the negotiation a question should arise relative to the precise boundary line between the U. S. and the Floridas, the said Secretary of foreign Affairs is hereby instructed that the Floridas do not, and ought not of right to extend to the Northward of the boundary line between them and the U. S. as fixed by the definitive treaty aforesaid, and that he shall

not in any event by treaty or otherwise consent to the extent of the Floridas northerly of a line or boundary of the U. S. adjacent to the Floridas, specified in a separate Article of the provisional Articles between the U. S. and Great Britain, at Paris, on the 30 day of November, 1782. And provided that a disagreement shall take place between the said Secretary of foreign Affairs and the Encargado de Negocios of his C. Majesty, by the latter's insisting on the boundary line as specified by the aforesaid separate article, and the former's insisting on the boundary line as fixed in the aforesaid definitive treaty, the said Secretary of foreign Affairs is hereby authorised to agree to the settlement and final decision of such disagreement by Commissaries mutually appointed for that purpose; for the appointment of whom and for all other purposes incident to the final determination of the said disagreement by Commissaries, conformable to the laws of Nations, the said Secretary of foreign Affairs is hereby invested with full powers on behalf of the U. S. of America." <sup>1</sup>

A Motion was made by Mr. [Rufus] King, seconded by Mr. [Melancton] Smith, to amend the report by striking out the last clause in the second resolution, beginning with the words "And the said Secretary of foreign Affairs is hereby further instructed firmly," &c. to the end, and in lieu thereof to insert "Provided farther, that the said Secretary of foreign Affairs do and hereby is directed, to insist on the territorial limits or boundaries of the U. S. as fixed in the definitive treaty

This report of the Committee of the Whole, in the writing of Charles Thomson, is in the *Papers of the Continental Congress*, No. 81, II, folio 241. It is crossed off and marked for the later amendments. According to indorsement it was read August 23 and made the "Order of the day for Monday 28 Aug." See *ante*, August 10, Motion of Delegates of Massachusetts. See *post*, August 29.

“of peace and friendship between the U. S. of America  
 “and his Britannic Majesty; and he is further instructed  
 “not to form any treaty with the said Encargado de  
 “Negocios, unless the said limits or boundaries are  
 “thereby acknowledged and secured.” And on the  
 question to agree to this Amendment, the yeas and nays  
 being required by Mr. [Rufus] King—

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	ay	}ay	Mr. Henry,	no	}no
Long,	ay		Harrison,	no	
<i>Massachusetts,</i>			Ramsay,	ay	
Mr. Gorham,	ay	}ay	<i>Virginia,</i>		
King,	ay		Mr. Grayson,	no	}no
<i>Rhode Island,</i>			Carrington,	no	
Mr. Manuing,	ay	}ay	Lee,	no	
Miller,	ay		<i>North Carolina,</i>		
<i>Connecticut,</i>			Mr. Bloodworth,	no	}no
Mr. Johnson,	ay	}ay	White,	no	
Sturges,	ay		<i>South Carolina,</i>		
<i>New York,</i>			Mr. Bull,	no	}no
Mr. Lawrence,	ay	}ay	Pinckney,	no	
Haring,	ay		Huger,	no	
Smith,	ay		Parker,	no	
<i>New Jersey,</i>			<i>Georgia,</i>		
Mr. Cadwallader,	ay	}ay	Mr. Houstoun,	no	}div.
Hornblower,	ay		Few,	ay	
<i>Pennsylvania,</i>					
Mr. Bayard,	ay	}div.			
St. Clair,	no				

So the question was lost.

A division of the report and a decision on the first resolution being called for by Mr. King, a motion was made by Mr. [Charles] Pinckney, seconded by Mr. [Edward] Carrington, to postpone the first resolution in order to take up the following:

That the commission and instructions issued to J. Jay, secretary for foreign Affairs, to Negotiate on the

part of the U. S., with Don Diego de Gardoqui, Encargado de Negocios of his Catholic Majesty, be and the same are hereby revoked and repealed.

And on the question to postpone for the purpose abovementioned, the yeas and nays being required by Mr. [Timothy] Bloodworth—

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	no	}no	Mr. Henry,	ay	}ay
Long,	no		Harrison,	ay	
<i>Massachusetts,</i>			Ramsay,	ay	
Mr. Gorham,	no	}no	<i>Virginia,</i>		
King,	no		Mr. Grayson,	ay	}ay
<i>Rhoe Island,</i>			Carrington,	ay	
Mr. Manning,	no	}no	Lee,	ay	
Miller,	no		<i>North Carolina,</i>		
<i>Connecticut,</i>			Mr. Bloodworth,	ay	}ay
Mr. Johnson,	no		White,	ay	
Sturges,	no		<i>South Carolina,</i>		
<i>New York,</i>			Mr. Bull,	ay	}ay
Mr. Lawrence,	no	}no	Pinckney,	ay	
Haring,	no		Huger,	ay	
Smith,	no		Parker,	ay	
<i>New Jersey,</i>			<i>Georgia,</i>		
Mr. Cadwallader,	no	}no	Mr. Houstoun,	ay	}div.
Hornblower,	no		Few,	no	
<i>Pennsylvania,</i>					
Mr. Bayard,	no	}no			
St. Clair,	no				

So it passed in the negative.<sup>1</sup>

The Commissioner for Settling the accounts of the late army to whom was referred the memorial of David Henley begs leave to report.

That the memorialist held a regular Commission as a Colonel of a Regiment of Foot in the service of the united States of America his Rank Commencing from the 1<sup>st</sup> day January, 1777.

<sup>1</sup> These proceedings are entered in *Secret Journal, Foreign*, No. 5, and in *Secret Journal*, No. 6.



That no arrangement took place after the date of his Commission until the year 1779 when the army was new organized and the supernumeraries were considered as retiring on a years pay under the Resolutions of Congress of January 10<sup>th</sup>, 1778; February 26<sup>th</sup>, 1778; May 17<sup>th</sup> 1778; June 4<sup>th</sup>, 1778; August 10<sup>th</sup>, 1778; November 24<sup>th</sup> 1778; July 4<sup>th</sup> 1779; March 9<sup>th</sup>, 1779, and September 5<sup>th</sup>, 1779, which were Carried into effect by the late Commander in Chief, as appears by his Returns and letters to and from the war Office.

That Colonel David Henley was not Continued in the list of officers of the Massachusetts line, or any of the sixteen additional Regiments, when said arrangement was made, which discontinuance leads your Commissioner to suppose that Colonel Henley then became a supernumerary officer, and entitled to only the emoluments then granted to such a character.

Your Commissioner, however, begs leave to state for the Consideration of Congress, the grounds on which Colonel has founded his claim for Commutation which are:

That his not being annexed to any Regiment in the service ought to enable him to be considered as an officer of the Line in General and not as belonging to any particular State, which principle being acknowledged, will prevent his being Affected by the derangement of 1779, and include him in the One of December 31, 1781, which has given the Commutation.

Your Commissioner on considering this Reasoning Cannot esteem it as conclusive, because Mr. Henley's Commission, on which he founds his claim and is the highest evidence, has annexed him to a Regiment. The public offices are therefore obliged to consider him in the same light as the other officers of the Regiment at that time, the only difference between them is that he became a supernumerary in the service at a much earlier period than the others, tho' it could not take place in the legal sense, until a General Arrangement under the express authority of Congress.

JN<sup>o</sup> PIERCE.<sup>1</sup>

Office of Army Accounts,  
August 28, 1786.

The Commissioner for Settling the accounts of the late army to whom was referred the petition of John Leseur, begs leave to report:

<sup>1</sup> This report is in the *Papers of the Continental Congress*, No. 62, folio 161. According to indorsement it was read August 28 and referred to a committee September 1.

That Ebenezer Storer, the paymaster to the Regiment in which the Petitioner belonged, drew from the military chest in 1778 and 1779 the sum of Two hundred and seventy-one Dollars as the ballance due to Leseur. That the said Storer made a settlement of his accounts as Paymaster with William Bedlow, Esquire, in August, 1779, and returned into the military chest the sum of One hundred and Twenty-Eight<sup>83</sup>/<sub>100</sub> dollars as the ballance then due to Leseur.

That Mr. Bedlow passed to Mr. Storer's Credit the remainder of the said sume of 271 dollars as paid to Leseur, tho' no voucher can be found that Mr. Leseur had received it. That the above mentioned sum of 128<sup>83</sup>/<sub>100</sub> Dollars was again drawn from the pay Office on the 3<sup>d</sup> day of February, 1780, by the said Storer, and advanced by him to other persons for their pay when money was so depreciated as to answer in the settlement made with him by your Commissioner, to no more value to the united States than 60 for One.

That a Resolution of Congress of the twenty-seventh day of May, 1778, has directed that the Regimental paymaster be chosen by the Officers of the Regiment who were to Risque their pay in his hands.

Whereupon your Commissioner begs leave to remark That the United States cannot be answerable for the repayment of the ballance Carried to Mr. Storer's Credit by Mr. Bedlow, who being a public Officer and a disinterested person could not do it without a proper Voucher at the time, which is most probably mislaid.

That the United States also cannot be answerable for the depreciation of the money in Mr. Storer's hands, as he was the person who Legally had an authority to receive it, and whose Receipt was the same to the Public as if Mr. Leseur had received it himself.

It appears to your Commissioner that the United States are only holden to pay to Mr. Leseur the sum of 128<sup>83</sup>/<sub>100</sub>ths dollars at 60 for One, being the value of the money when it was last Received from Mr. Storer.

JN<sup>o</sup> PIERCE.<sup>1</sup>

Office of Army Accounts,  
August 25<sup>th</sup>, 1786.

The Commissioner for Settling the Army Accounts of the late Army of the United States, to whom was referred the Petition of A. Baird requesting the Commutation in lieu of half pay for Life as a

<sup>1</sup> This report is in the *Papers of the Continental Congress*, No. 62, folio 169. According to indorsement it was read August 28. See *post*, September 6.

deranged Surgeon in Baldwin's late Corps of Artificers, begs leave to Report:

That Doctor Baird founds his Claim on the resolution of January 17<sup>th</sup>, 1781, granting generally the half pay to the Hospital department and that of May 3<sup>d</sup>, 1782, granting the same particularly to a Surgeon of Artificers.

The Congress did on the 19<sup>th</sup> October, last, refer to your Commissioner a Report made by a Committee of Congress on the petition of Sundry Officers of the Corps of Artificers for half pay or Commutation, which report your Commissioner was directed to take order on and is in the words following Viz<sup>l</sup>

\* \* \* \* \*

Your Commissioner Therefore Supposes that he is not warranted to grant the Commutation to the Memorialist unless he has the direction of Congress.

JN<sup>o</sup> PIERCE.<sup>1</sup>

Office of Army Accounts,  
New York, August 25<sup>th</sup>, 1786.

BOARD OF TREASURY,  
August 24, 1786.

The Board of Treasury beg leave to Report:

That in consequence of the Resolve of Congress of the 11<sup>th</sup> of October last directing "That when the Agents appointed to issue Certificates for the Balances due to the Corps of the late Continental Army (not appertaining to any State) shall have finally adjusted the Accounts of their Respective Corps with the Commissioner of Army Accounts—The Board of Treasury be directed to ascertain and Report to Congress such compensation as from the Report of the

<sup>1</sup> This report is in the *Papers of the Continental Congress*, No. 62, folio 177. According to indorsement it was read August 28 and referred to a committee September 5. The omitted portion, the report of the committee, is printed under the proceedings of October 19, 1785, *q. v.*

AUGUST 28: The committee of July 21 on the memorial of George Fisher was, this day, discharged.

*Committee Book No. 190.*

Also was read according to indorsement, the report of the Commissioner of Army Accounts on the account of the late Major General Lord Stirling, to the effect that he would have issued his certificate for the sum due "had a legal Executor or Administrator Appeared to have received it." It is in No. 62, folio 165.

said Commissioner they shall judge proportionate to the service of the Respective Agents"; several applications have been made to them by Agents claiming the Benefit of this Resolve.

On a Conference with the Commissioner of Army Accounts on the Execution of this Act, we find that it will be very difficult (if not impracticable) to ascertain the true Merits of each Claimant. We have therefore judged it advisable to establish such a General Rule as would operate with as much Justice and Impartiality, as would probably be the case, if a particular Examination was made into their respective Services. The Measure of these Services will in a great Degree be proportionate to the Amount of the Certificates severally issued by them.

From these Considerations we take the liberty to submit to the Opinion of Congress the following general Resolve, which (should it be approved of by Congress) will in our opinion greatly tend to Expedite the final Settlement of the Army Agents' Accounts.<sup>1</sup>

TUESDAY, AUGUST 29, 1786.

Congress assembled. Present as before.

AUGUST 29, 1786.

Congress resumed the consideration of the report of the committee of the whole, when a motion was made by the delegates of Virginia, That the further consideration of the report be postponed in order to take up the following:

"The United States in Congress assembled having, upon the report of a committee to whom was referred the commission of Don Diego de Gardoqui, on the 20 July, 1785, Resolved, That the hon<sup>ble</sup> John Jay, secretary to the United States of America for the department of foreign affairs, be and hereby is invested with full power, in behalf of the U. S. of America, to treat, adjust, conclude and sign with Don Diego de Gardoqui, Encar-

<sup>1</sup> This report, signed by Samuel Osgood and Arthur Lee, is in the *Papers of the Continental Congress*, No. 139, folio 371. According to indorsement it was read August 28 and the submitted resolve passed September 6, where it is spread *verbatim* on the Journal.



gado de negocios of his Catholic Majesty, whatever articles, compacts and conventions may be necessary for establishing and fixing the boundaries between the territories of the said United States and those of his Catholic Majesty, and for promoting the general harmony and mutual interest of the two Nations. That the Secretary of the U. S. of America for the department of foreign Affairs be and he is hereby instructed, previous to his making propositions to Don Diego de Gardoqui, or agreeing with him on any article, compact or convention, to communicate to Congress the propositions to be made, or received relative to such Article, compact or convention."

And afterwards on the 25 of August following, upon the report of a committee on a letter of the Secretary for foreign Affairs, complaining of the restrictions imposed on him in the said instructions, Resolved, That the last paragraph in the instructions to the Secretary to the U. S. for the department of foreign Affairs, passed the 20 of July, 1785, for entering into a treaty, compact or convention with the Encargado de Negocios of his C. M., in the words following: "That the Secretary of the U. S. of America for the department of foreign Affairs be and hereby is instructed, previous to his making propositions to Don Diego de Gardoqui, or agreeing with him on any Article, compact or convention, to communicate to Congress the propositions to be made or received relative to such article, compact or convention," be repealed, and that the following be substituted in its place: "That the Secretary to the U. S. for the department of foreign Affairs be and he is hereby instructed, in his plan of a treaty with the Encargado de Negocios of his C. M., particularly to stipulate the right of the U. S. to their territorial bounds,



and the free navigation of the Mississippi, from the source to the Ocean, as established in their treaties with G. B.; and that he neither conclude nor sign any treaty, compact or convention with the said Encargado de Negocios, until he hath previously communicated it to Congress and received their approbation.”

And the said Secretary having, on the 29 of May, 1786, addressed a letter to the president of Congress on the subject of the said negotiations to the following effect:

OFFICE FOR FOREIGN AFFAIRS,

*May 29, 1786.*

SIR: In my negotiations &c. (here insert whole letter),<sup>1</sup>

And upon being afterwards called before Congress to explain, &c. proceeded, in a written statement of August 13th, for the reasons therein contained, to advise, that the U. S. enter into a treaty with Spain upon the following principles: 1. That all commercial regulations affecting each other shall be founded in perfect reciprocity. Spanish Merchants shall enjoy all the commercial privileges of native merchants in the United States, and the American Merchants shall enjoy all the commercial privileges of native Merchants in the kingdom of Spain, and in the countries and other islands belonging and adjacent thereto. The same privileges shall extend to their respective vessels and merchandise consisting of the manufactures and productions of their respective countries. 2. Each party may establish consuls in the countries of the other, excepting such provinces in Spain into which none have heretofore been admitted, viz. Bilboa and Guipusca, with such powers and privileges as shall be ascertained by a particular convention. 3. That the bona fide manufactures and productions of

<sup>1</sup> See *post*, May 31, 1786.

the U. S., tobacco only excepted, which shall continue under its present regulations, may be imported in American or Spanish vessels into any parts of his Majesty's European dominions and islands aforesaid, in like manner as if they were the productions of Spain; and on the other hand that the bona fide manufactures and productions of his Majesty's dominions may be imported into the U. S. in Spanish or American vessels, in like manner as if they were the manufactures and productions of the said States; and further, that all such duties and imposts as may mutually be thought necessary to lay on them, by either party, shall be ascertained and regulated on principles of exact reciprocity, by a tariff to be formed by a convention for that purpose, to be negotiated and made within one year after the exchange of the ratifications of this treaty; and in the mean time that no other duties or imposts shall be exacted from each others merchants and ships, than such as may be payable by natives in like cases. 4. That inasmuch as the U. S., from not having mines of gold and silver, may often want supplies of specie for a circulating medium, his C. M, as a proof of his good will, agrees to order the masts and timber which may from time to time be wanted for his royal navy, to be purchased and paid for in specie in the U. S.; provided the said masts and timber shall be of equal quality, and when brought to Spain shall not cost more than the like may there be had from other countries. 5. It is agreed that the articles commonly inserted in other treaties of commerce for mutual and reciprocal convenience shall be inserted in this; and that this treaty, and every article of stipulation therein, shall continue in full force for            years, to be computed from the day of the date thereof. In considera-

tion for which we are to forbear the navigation of the Mississippi for            years.

<sup>1</sup> The Secretary having thus, agreeably to his statement aforesaid, conducted the negotiation committed to his care with the Encargado of Spain to a point, it becomes the duty of the United States to examine well the measures they now take, that they may be calculated to secure the friendship of the catholic King, and preserve at the same time the honour and the interests of the confederacy. These must be either in conformity with the opinions of the Secretary, or, from a conviction of their impropriety, by adopting some other plan, which shall appear preferable to it; it will therefore be well, in the first instance, to examine the plan itself.

The Secretary hath united the project of a commercial treaty with Spain, with the interfering claims of the two powers respecting the boundaries and the Mississippi, and proposes, that to obtain what he calls liberal terms in commerce, we should by compact forbear the use of the navigation of the Mississippi for the period of the treaty; that the claims of the parties respecting the boundaries remain as they are, to be the subject of future discussion and compromise. The project is a plain and simple one. It proposes to give the merchants, the vessels, and the productions and manufactures of each country in the ports of each other, viz. those of Spain in the ports of the United States, and those of the United States in the ports of Spain and the Canaries, the same privileges as if they were those of the Country itself. It behooves us, therefore, in the first instance to inquire, what alteration this will make in those instances from the condition on which we now stand. Secondly, whether this alteration, if there should be any, will be beneficial to the United States.

<sup>1</sup> At this point Roger Alden takes up the entry.

1<sup>st</sup> As to Merchants. We cannot suppose (and believe the contrary to be the case) that the King of Spain makes any discrimination in the ports aforesaid between Merchants, his subjects, and those of other nations. The laws of Spain distinguish only articles of commerce, and those into *such as are* and *such as are not contraband*; and the penalties and privileges are precisely the same in both instances in their application to foreigners and subjects. If discriminations therefore in this line can be beneficial, we tie up our hands from extending them to our citizens, without obtaining any consideration for it.

2<sup>d</sup> As to vessels engaged in the carriage of the manufactures of both countries. Spain hath no navigation Act. To the ports which are open, the vessels of all countries are admitted, and in the carriage even of her own productions and manufactures, upon the same footing with those of her own subjects; here we bind up ourselves again, without a valuable consideration for it.

3<sup>d</sup> As to productions, &c. The two Nations engage to receive those of each other into the ports aforesaid, as if they were their own. With respect to Spain and the Canaries this is certainly the case at present. The productions, &c. of the United States (Tobacco excepted, which is hereby excluded) are admitted into the ports aforesaid, in the most liberal manner that the Article will admit a construction of, and precisely upon the same terms with similar Articles, the growth of the Colonies of Spain, in different quarters of the globe; so that this treaty will not open to us a single port, nor admit us into those now open upon better terms than those we now enjoy. Can these positions be controverted, that neither our Merchants, our vessels, nor

our productions, will be received into the ports of Spain and the Canaries, upon different terms from those on which they are now received? If this is not the case, let the contrary be shewn.

But how will the Secretary's project affect us? The merchants of Spain shall have in our ports the rights of the native merchants of America. When we consider that our commerce is subjected, in every article, to the most severe restrictions, in almost every foreign port; that under the necessary encouragement given by France and Britain to their own fisheries, that Article is excluded from their ports; that the Mediterranean sea is shut against us; and that it is the interest of those powers, as it would after this treaty be that of Spain also, it should be so always; that the West India Islands are also occluded almost altogether; that the wheat and rice trade is from these causes greatly injured; that the Tobacco is a monopoly in the hands of the farmers General in France; in Spain a contraband. Thus banished from the European countries and their dependencies, one would suppose it the duty of every wise American Statesman to secure our rights and interests at home; to give in our own ports to our own citizens exclusive privileges: but of this advantage the project would deprive them.

Spain shall be admitted into the carriage of our productions, &c. upon the same footing that we are into that of hers. If the materials of both parties were such as to employ the same number of vessels in the carriage, such a compact would, on the part of these States, in their circumstances, be unwise. But when we consider how few ships will be employed in the carriage of the productions, &c. of Spain, how unimportant they are in point of bulk and proportion to that



of the productions of these States, the disadvantage of the stipulation must obviously occur. How contrary would such a stipulation be to the policy of Great Britain. To the policy of her navigation act, an act ~~founded on very different principles from these the project proposed and~~ which gives to her own subjects, in their intercourse with all other nations, high privileges and immunities they do not enjoy. To the wisdom of this act and her other regulations in commerce, it is owing, that she hath attained to such a height of power and grandeur on the Seas, as to be at the same time the terror and the admiration of the world; that her subjects have obtained such commercial wealth and astonishing resources, as to be able to support her in the most splendid enterprises, and the longest and most difficult wars that her councils could devise, or the change of fortune expose her to. Yet of the right of adopting and pursuing such a system of policy, or in any degree discriminating in favour of our own carriage, would the project deprive us.

Spain shall have a right to bring her manufactures, &c. here, and take off our own, (Tobacco excepted) in the same manner as they were her own. It is difficult to understand the nature of this engagement. If by this it is meant that productions, &c. of the one shall of right be admitted into the ports of the other, independent of the will of the other, after this treaty for that term, the duties remaining as they are, (Tobacco only excepted) its operation is very extensive and important. ~~The States~~ The parties have in that instance given up the right of prohibition or restriction on Imports or exports, which do not apply at the time to similar articles of their own. The case is perhaps without a precedent, and one would suppose it never could have one, unless

the family compact between the different branches of the house of Bourbon may be considered as such, which was even between those nations found inconvenient; and afterwards by the treaty of Paris, in 1763, annulled. Independent Nations have always heretofore retained to themselves the right of regulating their own interior police, which they could not do if thus connected, and made dependent on that of others, and by that means of securing to themselves a reciprocity in their intercourse with other nations. Many are the purposes to which the exercise of this power in different countries is made subservient, depending in each on a variety of circumstances; the nature of the Government, the manners of the people, state of population, resources, and the purposes to which it might incline to turn them, with others, that upon examination might occur. But here they might be defeated. If, for instance, the object was to promote virtue and frugality, by prohibiting the importation of foreign luxuries; if to encourage Manufactures and to countenance the mechanical Arts at home, by prohibiting imports from other countries, the right by this treaty would be abrogated. In short, the police of these States would be so interwoven with that of Spain, and the management of her own System made so dependent on her will, that we should not be able to act on it afterwards. Such a stipulation would also be contrary to the federal compact; for by it each State retains the right of prohibiting the importation or exportation of any species of goods or commodities whatever. If such then is its purport, it is in direct violation of the compact itself, and of course void. If it is our intention to merit and preserve the confidence of our constituents, we should hold this compact sacred: and if to support any Character among the Nations of the Earth, we

should enter into no engagements we cannot fulfil. It is sufficiently low already; we need not debase it further. If, on the other hand, they retain the right of prohibiting, or of encouraging imports and exports, by imposing what duties they may from time to time think proper, under this restriction only, that their Subjects and Citizens respectively shall pay in the ports of each other the duties of Natives only, the effect will be very confined and unimportant. It is still within the power of each Nation to suspend all commercial intercourse with the other; for by prohibiting the importation of the Manufactures and productions of the other, by its own Subjects or Citizens, the prohibition is extended to those of the other, and the commerce at an end; each party still retains the right of contracting with others, and without restraint. For instance, Spain might covenant with France to admit her flour or fish into her ports, paying the duty of five per cent. *ad valorem*; and afterwards impose twenty per cent. on similar Articles from these States. If the same duty on our commodities was imposed equally on her own and our citizens, there would be no violation of the treaty; and thus, while she preserved her faith with us, she would give a monopoly in these Articles to France. So that in either view, this stipulation, which the Secretary holds to be so liberal and advantageous, will not bear a close examination. It presents at first view, in appearance, plausible colours, but when investigated, will be found to be either mischievous, or at best of no advantage to these United States.

[Our treaties with France, the United Netherlands, Sweden, Russia, &c. stipulate to each, "the right of the most favoured Nations." These Nations, therefore, coming into the terms of Spain, will be entitled to these

benefits; and that they will, cannot be questioned; for in so doing, they give up little or nothing. The evils of this project will therefore be almost universal, and of course without remedy. They will also of right require a consideration for so doing, equivalent to the value of the occlusion of the Mississippi. In addition to which the Article of Tobacco will by compact be excluded from all their ports, as well as from those of Spain.]

Spain is, of all countries, the one from whose commercial restrictions we have the least to fear; and of course the one with whom there is the least necessity for our binding ourselves under any engagements to. Her exports are but few, and her commerce with all Nations against her. ~~Considering it as below their station and appropriate only to the subordinate ranks of men, her Councils composed of nobles the proudest and vainest in Europe, are destitute of Commercial information. France and Britain are always labouring to turn this circumstance to their advantage against each other. Britain hath often wounded her pride by stating her to be under the influence of French Councils—and Spain has occasionally given herself airs to shew she was not—as in her late attempt to treat with Britain upon the subject of trade—which was as weak as it was unsuccessful.~~ Encumbered with her immense and opulent colonies, the great exertion of the Spanish Monarchy is to keep them together. The price of an Alliance with Britain, is exclusive advantages in trade. This separates her from France; and in the superiority of her fleets puts her commerce and her Colonies together into the Arms of Britain. Spain will therefore maintain her connexions with France, from whose superiority by Sea she hath less to fear, and cultivate the friendship of the United States. A connexion with Britain turns the



scale against the other powers in favour of Britain, and makes her a british colony. A connexion with France and the allies of France preserves things as they now stand: we may therefore safely conclude, that as the friendship of the United States must form an essential part of her system, that if she fails in the present object, which from the disposition of the United States (made known to her by the Secretary himself at the Court of Spain, in the midst of the war, and while surrounded with difficulties) she must calculate on, she will either come forward and grant fully the terms we require, or at least still seek an accommodation by the most friendly and conciliating attention to our interests. By procrastination she will still court our commerce, and continue to exert her influence with the regency of Algiers, &c. for the relief of our prisoners, and with other powers in our favour by bargain. Unless these advantages become a part of the treaty, we lose them.

[As to the surrender or forbearance of the use of the navigation of the Mississippi for the term proposed, for the consideration proposed, (the right of the United States to dismember the government being out of the question) it is inadmissible for the reasons above stated; but it is also inadmissible upon the principle of the right, and independent of the right, upon the highest principles of national expedience, which apply even if the commercial project were an advantageous one. In the present state of the powers of Congress, it should be the policy of every wise Statesman to pursue such a System of conduct as shall be best calculated to gain the confidence of the several States in the federal councils, and thereby an extension of their powers; but this measure we apprehend would tend to defeat that object. The States who have ceded it, and the



confederacy at large, look up to the western lands as a substantial fund for the discharge of the publick debt. The value of these lands will depend in a great measure on the navigation of the Mississippi. By suspending this right we depreciate this fund, unnecessarily burden the confederacy with an additional weight, and proportionally injure the publick creditors. By the compact with Virginia it is stipulated, that the western country shall be divided into States, and admitted with the rights of the original States into the confederacy. The spirit of this compact is, that the territory should retain all its rights, and have them promoted under the patronage of Congress. This Act would therefore be a direct violation of it, and have a tendency to fix the weight of population on one side of the Continent only. But the dismemberment of the Government, which this unquestionably is, without the consent of the State interested, one would suppose would prevent even the consideration of the subject by Congress. That the United States have a right to the free navigation of the Mississippi, and the boundaries as established in the treaty with Great Britain, is a truth too well established in the Journals of Congress, and too fully supported by their Acts on the subject, to require any thing to be said at this day in its favour. To proceed on a contrary principle would manifest such a contradiction to their former Acts, and be such a subversion of the rights of nature and the States, as to lessen them throughout the world. It would also be such a sacrifice for particular purposes, as would be obvious to even the most undiscerning. The right, therefore, cannot now be called in question; nor can it be a principle on which we are to act. "Can the United States then dismember the government by a treaty of commerce?"

To evince the contrary let us recur to the writers on the laws of Nations on the subject.] (Vattel, vol. i. p. 105. book 1. chap. 21. sec. 260. "The Prince or Superior of the Society, whatever he is, being naturally no more than the Administrator, and not the proprietor of the State, his Authority, as Sovereign or Head of the Nation, does not of itself give him a right to alienate or dispose of the publick property. The general rule then is, that the Superior cannot dispose of the publick property, as to its substance. If the Superior make use of this property, the alienation he makes of it will be invalid, and may at any time be revoked by his Successor, or by the Nation. This is the Law commonly received by France; and it was upon this principle that the Duke of Sully advised Henry 4<sup>th</sup> to resume the possession of all the domains of the Crown alienated by his predecessors.

"The Nation having the free disposal of all the property belonging to it, it may convey this right to the Sovereign, and consequently confer upon him that of alienating and mortgaging the public property. But this right not necessarily belonging to the Conductor of the State to enable him to render the people happy by his Government, it is not to be presumed that the Nation has given it him; and if it has not made an express law for that purpose, it ought to be maintained that the Prince is not invested with it." § 265. "The Prince, the Superior of whatever kind, has he the power to dismember the State? Let us answer as we have done above with respect to the domain. If the fundamental Laws forbid the dismembering, he cannot do it without the concurrence of the Nation, or its representatives. But if the laws are silent, and if the Prince has received a full and absolute authority, he is then the depositary

of the rights of the Nation, and the organ by which it declares its will. The Nation ought never to abandon its Members, but in a case of necessity, or with a view to the public safety, and to preserve itself from total ruin; and the Prince ought only to cede them for the same reasons; but since he has received an absolute Authority, he is to judge of the necessity of the case, and what the safety of the State requires.”

“On occasion of the treaty of Madrid, the principal persons in France assembled at Cognac after the King’s return, unanimously concluded that his authority did not extend so far as to dismember the Crown, and the treaty was declared void, as contrary to the fundamental law of the Kingdom; indeed it was done without sufficient power, the Law in express terms refusing the King the right of dismembering the Kingdom: the concurrence of the Nation was necessary for this purpose, and it might give its consent by the medium of the States-General. Charles 5<sup>th</sup> ought not to have released his prisoner before those very States had approved the treaty, or rather, making a more generous use of his victory, he should have imposed less rigorous conditions, such as it was in the power of Francis to grant, and with which he could not have refused to comply without shame. But at present, when the States-General do not assemble in France, the King remains the sole organ of the State with respect to other powers: they have a right to take his will for that of all France; and the Cessions the King might make them, would remain valid, in virtue of the tacit consent by which the Nation has submitted all power into the hands of the King with respect to treaties. Were it otherwise, no certain treaty could be <sup>1</sup> entered into with the crown of France. However, by way of pre-

<sup>1</sup> Thomson here resumes the entry.

caution, other powers have often demanded that their treaties should be registered in the parliament of Paris; but at present this formality seems to be laid aside."

Vol. ii. b. 116. p. 4. ch. 2. sect. 10. "When a limited power is authorized to make peace, as he cannot of himself grant every condition, in order to treat on sure grounds with him, it must be required that the treaty of peace be approved by the Nation or the power which can make good the conditions. If for instance, in treating of a peace with Sweden, a defensive alliance and a guaranty be required for the condition, this stipulation will be of no effect, unless approved and accepted by the diet, which alone has the power of imparting validity to it. The kings of England conclude treaties of peace and alliance; but by these treaties, they cannot alienate any of the possessions of the crown without the consent of Parliament."

By the second Article of the Confederation of these United States, each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right which is not therein expressly delegated to the U. S. in Congress assembled. This is a fundamental law of the Nation, and the powers granted in the 9<sup>th</sup> Article to make treaties must be construed in subordination to it. No treaty even of peace entered into by the U. S. in Congress assembled, extending to a cession or suspension of the rights of any of the states without their consent, can therefore be valid; much less can such a treaty of commerce, which in point of political necessity can never be so pressing.)

How then shall we proceed in the present critical circumstances with Spain? An honorable arrangement with the court of Spain upon these points, and an advantageous treaty of commerce, though indeed whilst our



trade is so restrained by the piratical powers, it will be of less consequence [than it otherwise would be,] are certainly desirable objects. A continuance of the negotiation in the hands of the secretary alone, as his sentiments are now known [in Congress, and differ so widely from the opinions of several States in this Confederacy,] especially on the points relative to the Mississippi and the boundaries, would be improper. It would give the opposite party a manifest advantage and in short counteract on our part the objects of the negotiation itself. It would also be dissatisfactory to the States in the confederacy, especially those interested in it. [not be advisable.] Upon the first point, therefore, it will be proper to instruct our charge d'affaires at the court of Spain to agree with that court on the principles; the treaty ultimately to be concluded here; that it be negotiated under the mediation of France. Upon the second it will be proper, agreeably to the arrangement at Annapolis, that two other commissioners be appointed with Mr. Jay, the consent of the majority of whom shall be necessary to conclude the treaty.

It is to be observed, that the Secretary hath no power to treat on the subject of commerce, being confined solely to the interfering claims of the two parties as above. The power to form such a treaty with Spain having been committed to Messrs. Adams, Franklin and Jefferson, at Annapolis, on 7th May, 1784, under a commission which had then near one year to run, with all the other powers of Europe, upon principles then agreed on as applying to all. This must be the more obvious from the care the U. S. have always taken to establish the principles in Congress upon which their treaties should be formed, and making their ministers the instruments only of their will, especially at Annapolis, in 1784,



when their system of commercial policy to be established in treaties was, after mature consideration, agreed to, and men appointed from different quarters of the union, as being necessary to concentrate a representation of the different interests. Can it be supposed then, that the commission of these gentlemen with respect to Spain, without even mentioning it, or agreeing on the principles in the instructions to the Secretary, or even mentioning the subject of trade in said instructions, were repealed, and he thus loosely authorized to form a treaty of commerce? ~~his conduct therefore upon this subject not being warranted by his instructions is conceived to be unjustifiable and dangerous~~ That their interfering claims, however, may be amicably settled, and that the two nations may enjoy reciprocal advantages in trade, it is hereby

Resolved, [That the charge des affaires of the U. S. at the court of Spain be instructed to assure his Catholic Majesty of the high regard the U. S. entertain for his friendship, and of their earnest desire to cultivate and preserve always the best understanding between his Majesty and the said States. That as an evidence of this disposition they are willing to settle their interfering claims respecting the Mississippi, and the boundaries, upon the following principles. 1. That New Orleans be made an Entrepot for the reception of the bona fide produce of the U. S. brought down the river Mississippi by the Citizens of the said States: such produce to be landed at said port for exportation. That the said citizens be at liberty to return with their boats empty, or with passengers only, up the Mississippi to the places from whence they came. 2. That such produce aforesaid shall pay there, or the merchants exporting it give bond for the payment within six months from

the date, of a duty not exceeding      per cent. ad valorem at the time of exportation, to the crown of Spain. That such produce aforesaid shall be exported thence in Spanish, American or French vessels, those in the bottoms of Spain under the regulations of Spain, and those in the bottoms of America and France under the regulations of the two countries, by treaty or otherwise. That imports of every kind and country to the said port and up the said river, in American and french bottoms, be prohibited; and that all vessels engaged in transportation of said exports shall come to such port in ballast only. That the U. S. be authorised to appoint a consul to reside at New Orleans, who shall be responsible for any violation of these stipulations by the citizens of the U. S. That American factors be permitted to reside at said port for the management of the business of exportation only. That as to the boundaries, they must insist on those established in their treaty with G. Britain. And further to assure his Cath: Majesty, that so soon as instructions shall be given to his minister in these states to this effect, the U. S. will authorise their Minister to conclude a treaty in conformity herewith. But that they cannot enter into any treaty or compact whatsoever with his Cath: Majesty on the said subjects upon any other terms or conditions whatsoever.

That the hon<sup>ble</sup> Mr. Jefferson be furnished with a copy of these instructions, and directed to make known to his M. C<sup>y</sup> Majesty the sincere regard they have for his person and family, the gratitude they bear for his former good offices, and the earnest desire they have of his friendly Mediation with the Catholic King, that by his interposition the interfering claims of the two Nations may be amicably settled.

That the resolutions of the 20 July, 1785, and the 25th of August following, authorising the Secretary of foreign Affairs to treat with Don Diego de Gardoqui respecting the boundaries and the Mississippi, in the words above recited, be and they are hereby repealed.

That two commissioners be appointed and associated with the Secretary of foreign Affairs, with powers to enter into a treaty with Don Diego de Gardoqui, or such other person as his C. M. shall appoint, upon the following principles. Upon the Mississippi and the boundaries as above; but that they receive no proposition on the said points until he shall be authorized by his said Majesty to accede to the said terms.<sup>1</sup>

That they be authorised to enter into a commercial treaty with Spain upon the following principles]: 1st, That each party shall have a right to carry their own produce, Manufactures and Merchandise, in their own bottoms, to the ports of the other, paying in both cases such duties only as are paid by the most favored nations, freely where it is freely granted to such Nation, or paying the compensation where such nation does the same; and so on as in the 3d, 4th, 5th, 6th, 7th resolutions of the 7 of May, 1784.]<sup>2</sup>

<sup>1</sup>On folio 304, No. 81, II, *Papers of the Continental Congress*, is the following resolve in Charles Pinckney's handwriting: "Resolved that two Commissioners be appointed by Congress in addition to the honorable John Jay for the purpose of negotiating with Don Diego de Gardoqui, Encargado de Negocios of his catholic majesty upon such principles as will in their opinion conduce to the interests of the U. S. and the harmony of the two powers provided no compact or treaty shall be signed until the same has been first laid before Congress and received their approbation."

<sup>2</sup>This motion, in the handwriting of clerks except the portions in brackets [ ] which are in that of James Monroe and the portion in parenthesis ( ) which is in that of Edward Carrington, is in the *Papers of the Continental Congress*, No. 81, II, folio 263. According to indorsement it was offered August 29 and the yeas and nays demanded by Mr. Monroe. The words lined out so appear in the original motion and not in the Journal.

On the question to postpone for the purpose above-mentioned, the yeas and nays being required by the delegates of Virginia—

<i>New Hampshire,</i>			<i>Pennsylvania,</i>		
Mr. Livermore,	no	}no	Mr. Bayard,	no	}no
Long,	no		St. Clair,	no	
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Gorham,	no	}no	Mr. Henry,	ay	}ay
King,	no		Harrison,	ay	
<i>Rhode Island,</i>			Ramsay,	ay	
Mr. Manning,	no	}no	<i>Virginia,</i>		
Miller,	no		Mr. Grayson,	ay	}ay
<i>Connecticut,</i>			Monroe,	ay	
Mr. Johnson,	no	}no	Carrington,	ay	
Sturges,	no		Lee,	ay	
<i>New York,</i>			<i>North Carolina,</i>		
Mr. Lawrence,	no	}no	Mr. Bloodworth,	ay	}ay
Haring,	no		White,	ay	
Smith,	no		<i>South Carolina,</i>		
<i>New Jersey,</i>			Mr. Bull,	ay	}ay
Mr. Cadwallader,	no	}no	Pinckney,	ay	
Hornblower,	no		Huger,	ay	
			Parker,	ay	
			<i>Georgia,</i>		
			Mr. Houstoun,	ay	}ay
			Few,	ay	

So it passed in the negative.

On the question to agree to the first resolution reported by the committee of the whole, the yeas and nays being required by the delegates of Virginia—

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	ay	}ay	Mr. Henry,	no	}no
Long,	ay		Harrison,	no	
<i>Massachusetts,</i>			Ramsay,	no	
Mr. Gorham,	ay	}ay	<i>Virginia,</i>		
King,	ay		Mr. Monroe,	no	}no
<i>Rhode Island,</i>			Carrington.	no	
Mr. Manning,	ay	}ay	Lee,	no	
Miller,	ay		<i>North Carolina,</i>		
<i>Connecticut,</i>			Mr. Bloodworth,	no	}no
Mr. Johnson,	ay	}ay	White,	no	
Sturges,	ay		<i>South Carolina,</i>		
<i>New York,</i>			Mr. Bull,	no	}no
Mr. Lawrence,	ay	}ay	Pinckney,	no	
Haring,	ay		Huger,	no	
Smith,	ay		Parker,	no	
<i>New Jersey,</i>			<i>Georgia,</i>		
Mr. Cadwallader,	ay	}ay	Mr. Houstoun,	no	}no
Hornblower,	ay		Few,	no	
<i>Pennsylvania,</i>					
Mr. Bayard,	ay	}ay			
St. Clair,	ay				

So it was

*Resolved,* That so much of the resolution of Congress of the 25 day of August, 1785, being an instruction to the Secretary of the United States for the department of foreign Affairs, as is contained in the following words, namely, "And that the following be substituted in its place; that the Secretary of the United States for the department of foreign Affairs be and hereby is instructed, in his plan of a treaty with the Encargado de Negocios of his Catholic Majesty, particularly to stipulate the right of the United States to their territorial boundaries,



and the free navigation of the Mississippi, from the source to the Ocean, established in their treaties with Great Britain; and that he neither conclude or sign any treaty, compact or convention, until he hath previously communicated it to Congress, and received their approbation," be and the same is hereby repealed and made void.<sup>1</sup>

WEDNESDAY, AUGUST 30, 1786.

Congress assembled. Present as before.

The committee, consisting of Mr. [Nathaniel] Ramsay, Mr. [Charles] Pinckney and Mr. [Henry] Lee, to whom was referred a memorial of John O'Donnell, praying that Congress would be pleased to grant him Sea letters for the ship Chesapeake, having reported, "That the ship Chesapeake and her Cargo are the property of Citizens of the United States, and that the ship is principally navigated by citizens of the United States, and bound on a voyage to India:"

*Resolved*, That a Sea letter be granted for the ship Chesapeake, John O'Donnell, master, in the form of that granted to the Ship Canton, *mutatis mutandis*.

<sup>1</sup> These proceedings are entered only in *Secret Journal, Foreign*, No. 5.

AUGUST 29: The following committee was appointed: Mr. [Nathaniel] Ramsay, Mr. [Charles] Pinckney and Mr. [Arthur] Lee, on the memorial of Captain John O'Donnell for sea-letters for the ship *Chesapeake*, for the India trade. A copy of the memorial, by Roger Alden, is in No. 41, VII, folio 326. It is dated August 25 and, according to indorsement, was read August 29. The committee reported and the report was acted on August 30.

*Committee Book No. 190.*

Also, according to indorsement, was read the letter of Governor George Clinton, dated August 26, replying to the resolutions of Congress of August 23 urging the calling of the New York Legislature in session to grant Congress the system of impost as recommended April 18, 1783. Clinton declined to convene the Legislature and gave his reasons therefor. His letter is in No. 67, II, folio 545-547.

IN CONGRESS,  
*August 30, 1786.*

Congress proceeded in the consideration of the report of the Committee of the whole; and the Second resolution<sup>1</sup> reported by the Committee being read, a motion was made by Mr. [Rufus] King, seconded by Mr. [Melancton] Smith, to amend the resolution by striking out the last clause from "Provided farther that the said Secretary for foreign affairs do and hereby is directed," inclusive, to the end, and in lieu thereof to insert "provided farther, that the said Secretary for foreign Affairs do and hereby is directed, to insist on the territorial limits or boundaries of the U. S. as fixed in the definitive treaty of peace and friendship between the U. S. of America and his Britannic Majesty; and he is farther instructed, not to form any treaty with the said Encargado de Negocios unless the said limits or boundaries are thereby acknowledged and secured."

A motion was made by Mr. [Charles] Pinekney, seconded by Mr. [James] Monroe, to postpone the further consideration of the Resolution and amendment, in order to take up the following proposition:

Whereas under the 9th of the Articles of the Confederation it is declared "The United States in Congress assembled shall not enter into treaties or alliances, unless Nine States assent to the same:" And whereas by Resolutions of the 20 July and 25 day of August, 1785, the hon<sup>ble</sup> John Jay, Secretary for foreign Affairs, was authorised with the assent of the United States to negotiate with Don Diego de Gardoqui, Encargado de Negocios of his Catholic Majesty, under certain Instructions, the last clause of which was in these words, "and that the

<sup>1</sup> See *ante*, August 28.

following be substituted; that the Secretary to the United States for the department of foreign affairs be and hereby is instructed, in his plan of a treaty with the Encargado de Negocios of his Catholic Majesty, particularly to stipulate the right of the United States to their territorial bounds, and the free navigation of the Mississippi from the source to the Ocean, established in their treaties with Great Britain; and that he neither conclude nor sign any treaty, compact or convention with the said encargado de negocios, until he hath previously communicated it to Congress, and received their approbation;" And whereas a motion is made to repeal the said recited clause of Mr. Jay's instructions leaving the other part of the same in full effect and enabling him to negotiate without any respect to the right of navigating the Mississippi, and to conclude a treaty without first conclude a treaty without from which qualifications and restrictions the said John Jay could not depart without a violation of his instructions: And as the repeal by seven States of the said recited last clause has the effect of enlarging the powers of the said negotiator, and granting him an authority he did not possess under the former instructions, to which the assent of nine States is alone constitutionally competent under the confederation, as the removal of a positive restraint confers a positive Authority, and as a delegate cannot exceed the authority delegated to him, nor delegate to another a greater power than he himself possesses, it follows, that the right of entering into treaties being delegated by the Confederation to the concurrent assent of nine States in Congress assembled, this power cannot be delegated to others, nor any alterations made in instructions upon this subject, but by a similar concurrence of nine States. The right of entering into treaties comprehends an abso-

lute and exclusive right of admitting or rejecting every article of such treaty, as well as the whole collectively. This right cannot be exercised by seven States, consequently it cannot be delegated by them to any other person or description of persons, without an absolute violation of the principles of the confederation. If a treaty entered into in pursuance of instructions be not ratified, by the law of nations it is *causa belli*. If only seven States repeal the said last recited clause of Mr. Jay's instructions, and he thereupon proceeds to enter into a treaty upon different principles than those under which he was formerly authorised by nine States, the said treaty cannot be considered as formed under instructions constitutionally sanctioned by the Authority required under the Confederation; nor are the United States, under the laws or usage of Nations, bound to ratify and confirm the same: Therefore,

*Resolved*, That the Secretary for foreign Affairs be informed, that as the said recited clause of his instructions, restraining him from entering into any treaty or Compact with the Encargado de Negocios of his Catholic Majesty, which did not fix the territorial limits of the U. S. agreeable to the definitive treaty with G. B., and the right of the U. S. to the free navigation of the Mississippi from its source to the Ocean, was repealed by the assent of seven States, when nine were alone competent to such alteration and enlargement of his powers, the U. S. in Congress assembled do not consider him as authorised to negotiate upon different principles than those under which he was formerly instructed by the said resolutions of the 20 July and 25 August, 1785; nor, should he proceed to enter into a treaty upon other principles, do they conceive the U. S. bound under the

law of Nations to ratify and confirm a compact formed under powers thus unconstitutional and incompetent.”<sup>1</sup>

On the question to postpone for the purpose above-mentioned, the yeas and nays being required by Mr. [Timothy] Bloodworth—

<i>New Hampshire,</i>			<i>Maryland</i>		
Mr. Livermore,	no	}no	Mr. Henry,	ay	}ay
Long,	no		Harrison,	ay	
<i>Massachusetts,</i>			Ramsay,	ay	
Mr. Gorham,	no	}no	<i>Virginia,</i>		
King,	no		Mr. Grayson,	ay	}ay
<i>Rhode Island,</i>			Monroe,	ay	
Mr. Manning,	no	}no	Carrington,	ay	
Miller,	no		Lee,	ay	
<i>Connecticut,</i>			<i>North Carolina,</i>		
Mr. Johnson,	no	}no	Mr. Bloodworth,	ay	}ay
Sturges,	no		White,	ay	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Lawrance,	no	}no	Mr. Bull,	ay	}ay
Haring,	no		Pinckney,	ay	
Smith,	no		Huger,	ay	
<i>New Jersey,</i>			Parker,	ay	
Mr. Cadwallader,	no	}no	<i>Georgia,</i>		
Hornblower,	no		Mr. Houstoun,	ay	}ay
<i>Pennsylvania,</i>			Few,	ay	
Mr. Bayard,	no	}no			
St. Clair,	no				

So it passed in the negative.

<sup>1</sup> This motion, in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 81, II folio 285. It is indorsed by Thomson: "Previous question by New Hampshire Pensylv<sup>a</sup> Yeas and nays. Del. Virg."



On the question to agree to the amendment, the yeas and nays being required by Mr. [Melancton] Smith—

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	ay	}ay	Mr. Henry,	no	}no
Long,	ay		Harrison,	no	
<i>Massachusetts,</i>			<i>Virginia,</i>		
Mr. Gorham,	ay	}ay	Mr. Grayson,	no	}no
King,	ay		Monroe,	no	
<i>Rhode Island,</i>			Carrington,	no	
Mr. Manning,	ay	}ay	Lee,	no	
Miller,	ay		<i>North Carolina,</i>		
<i>Connecticut,</i>			Mr. Bloodworth,	no	}no
Mr. Johnson,	ay	}ay	White,	no	
Sturges,	ay		<i>South Carolina,</i>		
<i>New York,</i>			Mr. Bull,	no	}no
Mr. Lawrance,	ay	}ay	Pinckney,	no	
Haring,	ay		Huger,	no	
Smith,	ay		Parker,	no	
<i>New Jersey,</i>			<i>Georgia,</i>		
Mr. Cadwallader,	ay	}ay	Mr. Houstoun,	no	}div.
Hornblower,	ay		Few,	ay	
<i>Pennsylvania,</i>					
Mr. Bayard,	ay	}ay			
St. Clair,	ay				

So it was resolved in the affirmative.

A motion was then made by Mr. [Arthur] St. Clair, seconded by Mr. [Rufus] King, further to amend the resolution reported by the committee of the whole, and after the word "instructed," in the second line, to insert, "to propose, and if possible obtain the following stipulations, viz. That the Citizens of the United States shall not be interrupted in transporting the bona fide productions of the U. S. upon the Mississippi river from 31° N. L. to the city of New Orleans, where they shall be allowed to land the same, and permission be granted to occupy storehouses and other necessary buildings for the reception thereof. That the boats or other vessels, on board

of which the said productions shall have been transported to N. Orleans, shall have free leave to return up the Mississippi river to any place within the territory of the United States; provided that so far as they navigate below 31° N. L. they shall not load any species of goods, wares or merchandize whatsoever, but by permission of the Spanish government in florida. That American merchants or factors shall have free leave to reside at N. Orleans, for the purpose of receiving such American productions as may be brought down the said river Mississippi, and for exporting the same from thence in American or Spanish bottoms, under the regulations of the respective countries. That a duty of per cent. ad valorem shall be paid to the Crown of Spain upon all American produce shipped from the said city of N. O. in American bottoms within 6 months after such exportation, for which good and sufficient bonds shall be given previous to the departure of any vessel on board of which such produce shall be laden. That Am. vessels may freely navigate up the said river M., from the mouth to the said city of N. O.; but shall not carry any species of goods, wares or merchandize whatever contrary to the regulations of the crown of Sp. under pain of seizure and confiscation.”<sup>1</sup>

A motion was made by Mr. [James] Monroe, seconded by Mr. [William] Grayson, to amend the amendment by striking out the words “if possible obtain,” and inserting “that he enter into no treaty, compact or convention, which shall not include;” and on the question to agree to the Amendment to the Amendment, the yeas and nays being required by Mr. [James] Monroe—

<sup>1</sup> This motion, in the writing of Arthur St. Clair, is in the *Papers of the Continental Congress*, No. 81, 11, folio 305.

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	no	}no	Mr. Henry,	ay	}ay
Long,	no		Harrison,	ay	
<i>Massachusetts,</i>			<i>Virginia,</i>		
Mr. Gorham,	no	}no	Mr. Grayson,	ay	}ay
King,	no		Carrington,	ay	
<i>Rhode Island,</i>			Monroe,	ay	
Mr. Manning,	no	}no	Lee,	ay	
Miller,	no		<i>North Carolina,</i>		
<i>Connecticut,</i>			Mr. Bloodworth,	ay	}ay
Mr. Johnson,	no	}no	White,	ay	
Sturges,	no		<i>South Carolina,</i>		
<i>New York,</i>			Mr. Bull,	ay	}ay
Mr. Lawrance,	no	}no	Pinckney,	ay	
Smith,	no		Huger,	ay	
<i>New Jersey,</i>			Parker,	ay	
Mr. Cadwalader,	no	}no	<i>Georgia,</i>		
Hornblower,	no		Mr. Houstoun,	ay	}ay
<i>Pennsylvania,</i>			Few,	ay	
Mr. Bayard,	no	}no			
St. Clair,	no				

So it passed in the negative.

On the question to agree to the amendment, the yeas and nays being required by Mr. [Charles] Pinckney—

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	ay	}ay	Mr. Henry,	no	}no
Long,	ay		Harrison,	no	
<i>Massachusetts,</i>			<i>Virginia,</i>		
Mr. Gorham,	ay	}ay	Mr. Grayson,	no	}no
King,	ay		Monroe,	no	
<i>Rhode Island,</i>			Carrington,	no	
Mr. Manning,	ay	}ay	Lee,	no	
Miller,	ay		<i>North Carolina,</i>		
<i>Connecticut,</i>			Mr. Bloodworth,	no	}no
Mr. Johnson,	ay	}ay	White,	no	
Sturges,	ay		<i>South Carolina,</i>		
<i>New York,</i>			Mr. Bull,	no	}no
Mr. Lawrance,	ay	}ay	Pinckney,	no	
Smith,	ay		Huger,	no	
<i>New Jersey,</i>			Parker,	no	
Mr. Cadwallader,	ay	}ay	<i>Georgia,</i>		
Hornblower,	ay		Mr. Houstoun,	no	}no
<i>Pennsylvania,</i>			Few,	no	
Mr. Bayard,	ay	}ay			
St. Clair,	ay				

So it was resolved in the affirmative.

The resolution being further amended to read as follows: That the Secretary to the United States for the department of foreign Affairs be and hereby is instructed, to propose, and if possible obtain the following stipulations, viz. That the citizens of the United States shall not be interrupted in transporting the bona fide productions of the United States upon the Mississippi river, from thirty one degrees north latitude to the city of New Orleans, where they shall be allowed to land the same, and permission be granted them to occupy storehouses and other necessary buildings for the reception thereof. That the boats or other vessels, on board of which the said productions shall have been transported

to New Orleans, shall have free leave to return up the Mississippi river to any place within the territory of the United States; provided that so far as they navigate below 31° N. latitude, they shall not load any species of goods, wares or merchandise whatsoever, but by permission of the Spanish government in Florida. That American merchants or factors shall have free leave to reside at New Orleans for the purpose of receiving such American productions as may be brought down the said river Mississippi, and for exporting the same from thence in American or Spanish bottoms under the regulations of the respective countries. That a<sup>1</sup> duty not exceeding 2½ per cent. ad valorem shall be paid to the Crown of Spain, upon all american produce shipped from the same city of New Orleans, in American bottoms, within six months after such exportation, for which good and sufficient bonds shall be given previous to the departure of any vessel on board of which such produce shall be laden. That American vessels may freely navigate up the said river Mississippi, from the mouth to the said city of New Orleans, but shall not carry any species of goods, wares or merchandize whatever, contrary to the regulations of the crown of Spain, under pain of seizure and confiscation. That if in the course of his negotiation with the Encargado de Negocios of his Catholic Majesty, it shall be found indispensable for the conclusion of the same, that the United States and their citizens, for a limited time, should forbear to use so much of the river Mississippi as is south of the southern boundary of the United States, the said Secretary be and hereby is authorised and directed, on behalf of the United States, to consent to an Article or Articles stipulating on their part and that of their citizens, a forbearance of the use of

<sup>1</sup> At this point Roger Alden takes up the entry.



the said river Mississippi for a period not exceeding twenty years, from the point where the southern boundary of the United States intersects the said river to its mouth or the ocean; provided, that such stipulation of a forbearance of the use of the said river for a limited time, as aforesaid, shall not be construed to extinguish the right of the United States, independent of such stipulation, to use and navigate the said river from its source to the ocean; provided further, that the Secretary for foreign Affairs shall not stipulate, on behalf of the United States, in favour of the exclusive navigation and use of the said river by his Catholic Majesty and his subjects, below its intersection of the southern boundary of the United States, unless it shall be agreed and stipulated in the same treaty, that the navigation and use of the said river, from the intersection aforesaid to its head or source, be and continue common to the United States and his Catholic Majesty, and to their respective citizens and subjects; provided farther, that the said Secretary of foreign Affairs do and hereby is directed to insist on the territorial limits or boundaries of the United States as fixed in the definitive treaty of peace and friendship between the United States of America and his Britannic Majesty; and he is further instructed, not to form any treaty with the said Encargado de Negocios, unless the said limits or boundaries are thereby acknowledged and secured.

<sup>1</sup> On the question to agree to the resolution as amended, the yeas and nays being required by Mr. [Charles] Pinekney—

<sup>1</sup> At this point Thomson resumes the entry.

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	ay	}ay	Mr. Henry,	no	}no
Long,	ay		Harrison,	no	
<i>Massachusetts,</i>			Ramsay,	no	
Mr. Gorham,	ay	}ay	<i>Virginia,</i>		
King,	ay		Mr. Grayson,	no	}no
<i>Rhode Island,</i>			Monroe,	no	
Mr. Manning,	ay	}ay	Carrington,	no	
Miller,	ay		Lee,	no	
<i>Connecticut,</i>			<i>North Carolina,</i>		
Mr. Johnson,	ay	}ay	Mr. Bloodworth,	no	}no
Sturges,	ay		White,	no	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Lawrance,	ay	}ay	Mr. Bull,	no	}no
Smith,	ay		Pinckney,	no	
<i>New Jersey,</i>			Huger,	no	
Mr. Cadwallader,	ay	}ay	Parker,	no	
Hornblower,	ay		<i>Georgia,</i>		
<i>Pennsylvania,</i>			Mr. Houstoun,	no	}no
Mr. Bayard,	ay	}ay	Few,	no	
St. Clair,	ay				

So the question was lost.<sup>1</sup>

THURSDAY, AUGUST 31, 1786.

Congress assembled. Present as before.

On motion of Mr. [Pierse] Long, seconded by Mr. [Melancton] Smith,

<sup>1</sup> These proceedings are entered in *Secret Journal, Foreign*, No. 5, and in *Secret Journal*, No. 6.

AUGUST 30: The following committee was appointed: Mr. [John Bubenheim] Bayard, Mr. [Timothy] Bloodworth and Mr. [John] Bull, on the petition of John Paul Schott. A report was rendered September 4.

The petition is in No. 42, VII, folio 259.

The petition of Levi Walker "for repayment of expences paid for his son when sick" was referred to the Commissioner of Hospital Accounts to report and a report rendered September 1. The petition, dated July 26, is in No. 42, VIII, folio 361; according to indorsement it was read August 30.

*Committee Book No. 190.*

Whereas major general John Sullivan was, while in service, employed at sundry times on separate commands and expeditions, whereby he was exposed to great and extraordinary expence,

*Resolved*, That it be recommended to the State of New Hampshire, to pay to the said John Sullivan, the sum of four thousand three hundred dollars, in the same manner as they have paid their other general Officers, and charge the same in their general account with the United States.<sup>1</sup>

On the question to agree to the above resolution, the yeas and nays being required by Mr. [Pierse] Long,

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	ay	}ay	Mr. Henry,	no	}no
Long,	ay		Harrison,	no	
<i>Massachusetts,</i>			Ramsay,	ay	
Mr. Gorham,	ay	}ay	<i>Virginia,</i>		
King,	ay		Mr. Grayson,	no	}ay
<i>Rhode Island,</i>			Monroe,	ay	
Mr. Manning,	ay	}ay	Carrington,	ay	
Miller,	ay		Lee,	ay	
<i>Connecticut,</i>			<i>North Carolina,</i>		
Mr. Johnson,	ay	}ay	Mr. Bloodworth,	ay	}ay
Sturges,	ay		White,	ay	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Lawrance,	ay	}ay	Mr. Bull,	no	}ay
Haring,	ay		Pinckney,	ay	
Smith,	ay		Huger,	ay	
<i>New Jersey,</i>			Parker,	ay	
Mr. Cadwallader,	ay	}ay	<i>Georgia,</i>		
Hornblower,	ay		Mr. Houstoun,	ay	}ay
<i>Pennsylvania,</i>			Few,	ay	
Mr. Bayard,	ay	}ay			
St. Clair,	ay				

So it was resolved in the affirmative.

<sup>1</sup> This motion, in the writing of Pierse Long, is in the *Papers of the Continental Congress*, No. 19, V, folio 461.

A motion was made by Mr. [Rufus] King, seconded by Mr. [Samuel] Livermore, in the following words:

*Ordered*, That when a question is set aside by the previous question, it shall not be in Order afterwards formally or substantially to move the same, unless there shall be the same, or as many states represented in Congress.<sup>1</sup>

On this the previous question was moved by the State of South Carolina, seconded by the State of Virginia: And on the question to agree to the previous question, the yeas and nays being required by the State of Virginia.

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	no	}no	Mr. Henry,	ay	}ay
Long,	no		Harrison,	ay	
<i>Massachusetts,</i>			Ramsay,	ay	
Mr. Gorham,	no	}no	<i>Virginia,</i>		
King,	no		Mr. Grayson,	ay	}ay
<i>Rhode Island,</i>			Monroe,	ay	
Mr. Manning,	no	}no	Carrington,	ay	
Miller,	no		Lee,	ay	
<i>Connecticut,</i>			<i>North Carolina,</i>		
Mr. Johnson,	no	}no	Mr. Bloodworth.	ay	}ay
Sturges,	no		White,	ay	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Lawrance,	no	}no	Mr. Bull,	ay	}ay
Haring,	no		Pinckney,	ay	
Smith,	no		Huger,	ay	
<i>New Jersey,</i>			Parker,	ay	
Mr. Cadwallader,	no	}no	<i>Georgia,</i>		
Hornblower,	no		Mr. Houstoun,	ay	}ay
<i>Pennsylvania,</i>			Few,	ay	
Mr. Bayard,	no	}no			
St. Clair,	no				

So it passed in the negative.

<sup>1</sup> This motion, in the writing of Rufus King, is in the *Papers of the Continental Congress*, No. 81, II, folio 309.

When the question was about to be put, the determination thereof was postponed till to Morrow by the State of South Carolina.

AUGUST 31, 1786.

A motion was made by Mr. [Charles] Pinckney, seconded by Mr. [Henry] Lee, in the words following:

Whereas under the 9<sup>th</sup> of the Articles of Confederation it is declared, "The United States in Congress assembled shall not enter into treaties or alliances unless nine States assent to the same:"—and whereas by resolutions of the 20 July and 25 day of August, 1785, the hon<sup>ble</sup> John Jay, Secretary for Foreign Affairs, was authorised, with the assent of nine States, to negotiate with Don Diego de Gardoqui under certain instructions, the last clause of which was in the words following, viz. "And that the following be substituted—that the Secretary to the United States for the department of foreign affairs be and hereby is instructed, in his plan of a treaty with the Encargado de Negocios of his Catholic Majesty, particularly to stipulate the right of the United States to their territorial bounds, and the free navigation of the Mississippi from the source to the Ocean, established in their treaties with Great Britain, and that he neither conclude or sign any treaty, compact or convention with the said Encargado de Negocios, until he hath previously communicated it to Congress and received their approbation";<sup>1</sup> from which qualifica-

<sup>1</sup> This motion, in the writing of Charles Pinckney and Henry Remsen, Jr., is in the *Papers of the Continental Congress*, No. 81, II, folio 289. It is crossed over and from the point indicated by the footnote reference above it recites: "And whereas a motion is made to repeal the said recited clause of Mr. Jay's instructions leaving the other part of the same in full effect—and enabling him to Negotiate without any respect to the right of Navigating the Mississippi, and to conclude a treaty without first consulting the United States in Congress assembled—and as the establishment of a precedent enabling Seven States to alter the instructions of a Minister on the subject of treaties to which the assent



tions and restrictions the said John Jay could not depart without a violation of his instructions. And as the repeal by seven States of the said recited last clause, has the effect of enlarging the powers of the said negotiator, and granting him an Authority he did not possess under the former instructions to which the assent of nine States is alone constitutionally competent under the Confederation; as the removal of a positive restraint confers a positive authority; and as a delegate cannot exceed the authority delegated to him, nor delegate to another a greater power than he himself possesses, it follows, that the right of entering into treaties being delegated by the confederation to the concurrent assent of nine states in Congress assembled, this power cannot be delegated to others, or any alterations made in instructions upon this subject, but by a similar concurrence of nine States. The right of entering into treaties comprehends an absolute and exclusive right of admitting or rejecting every article of such treaty, as well as the whole collectively. This right cannot be exercised by seven states; consequently it cannot be delegated by them to any other person, or description of persons, without an absolute violation of the principles of the Confederation. If a treaty entered into in pursuance of instructions be not ratified, by the law of

of Nine was in the first instance Necessary would be productive of the most serious dangers in destroying the ground which the Confederation has wisely provided on this important subject.

“The sense of Congress is required on the following proposition:

“Nine States having assented to the said instructions and the repeal of the clause above mentioned altering the same so materially as to make it a new one, and enable the Secretary for foreign Affairs to Negotiate upon other and very different principles from those contained in the Original instructions.

“Whether Seven States are competent to the partial repeal and alteration?”

*Cf. ante*, August 30.

nations it is *causa belli*. If only seven States repeal the said last recited clause of Mr. Jay's instructions, and he thereupon proceeds to enter into a treaty upon different principles than those under which he was formerly authorised by nine States, the said treaty cannot be considered as formed under instructions constitutionally sanctioned by the authority required under the confederation; nor are the United States, under the laws or usage of nations, bound to ratify and confirm the same: Therefore,

*Resolved*, That the Secretary for foreign Affairs be informed, that the said recited clause of his instructions, restraining him from entering into any treaty or compact with the encargado de Negocios of his Catholic Majesty, which did not fix the territorial limits of the United States agreeable to the definitive treaty with G. Britain and the right of the United States to the free navigation of the Mississippi, from its source to the ocean, was repealed by the assent of seven states, when nine were alone competent to such alteration and enlargement of his powers, the United States in Congress assembled do not consider him as authorised to negotiate upon different principles than those under which he was formerly instructed by the said resolutions of the 20th July and 25 August, 1785; nor, should he proceed to enter into a treaty upon other principles, do they conceive the United States bound under the law of Nations to ratify and confirm a compact formed under powers thus unconstitutional and incompetent."

On this, the previous question was moved by the State of New Hampshire, and seconded by the State of Pennsylvania; and on the question to agree to the previous question, the yeas and nays being required by the State of Virginia—

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	ay	}ay	Mr. Henry,	no	}no
Long,	ay		Harrison,	no	
<i>Massachusetts,</i>			Ramsay,	no	
Mr. Gorham,	ay	}ay	<i>Virginia,</i>		
King,	ay		Mr. Grayson,	no	}no
<i>Rhode Island,</i>			Monroe,	no	
Mr. Manning,	ay	}ay	Carrington,	no	
Miller,	ay		Lee,	no	
<i>Connecticut,</i>			<i>North Carolina,</i>		
Mr. Johnson,	ay	}ay	Mr. Bloodworth,	no	}no
Sturges,	ay		White,	no	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Lawrance,	ay	}ay	Mr. Bull,	no	}no
Haring,	ay		Pinckney,	no	
Smith,	ay		Huger,	no	
<i>New Jersey,</i>			Parker,	no	
Mr. Cadwallader,	ay	}ay	<i>Georgia,</i>		
Hornblower,	ay		Mr. Houstoun,	no	}no
<i>Pennsylvania,</i>			Few,	no	
Mr. Bayard,	ay	}ay			
St. Clair,	ay				

So it was resolved in the affirmative, and the main question was set aside.<sup>1</sup>

An Address from the United States in Congress Assembled, to the Legislatures of the several States:

When the Interests of a People are endangered, either through the defect of the Government they have established, or the want of timely and vigorous Exertions to give efficacy to its Operations, it becomes the duty of those to whom the sacred Trust of watching over the Welfare of the Nation is delegated, to awaken it to a sense of its danger, and to urge the adoption of such measures as may avert the Calamities with which it is threatened.

Impressed with a sense of this high Obligation, and an anxious and affectionate concern for the Interest, Honor, and Safety of their Constituents, the United States in Congress assembled, have at various periods, and on various occasions, exercised this important trust; but

<sup>1</sup> This proceeding is entered in *Secret Journal*, No. 5, and *Secret Journal*, No. 6.

on none more solemn and interesting than on the 18<sup>th</sup> February last, when after a mature and serious consideration of the State of the Nation, they were constrained to declare—"That a reliance on the Requisitions to discharge the Engagements of the Confederacy would be dangerous to the Welfare and Peace of the Union. That for want of a timely exertion in Establishing a General Revenue, not only the Existence of the Confederacy was hazarded, but those great and invaluable privileges for which they had contended; And therefore that whilst Congress were denied the Means of satisfying these Engagements, which they had constitutionally entered into for the Common Benefit of the Union, it was their duty to warn their Constituents, that the most fatal Evils would inevitably flow from a breach of Public Faith, pledged by solemn Contract, and a violation of those principles of Justice which are the only solid Basis of Honor and Prosperity of Nations."

It would be unnecessary on this occasion to recapitulate the reasons which induced the Recommendation of the Revenue System of the 18<sup>th</sup> April, 1783. The necessity of a compliance, with a General Impost (which constituted a principal part of this System) and the Benefits or Evils which would inevitably flow, from a neglect or adoption of the measure, are so forcibly pointed out in the Act of Congress of the 16<sup>th</sup> December, 1782 (which accompanied their Address of the 18<sup>th</sup> April, 1783), and by their subsequent Resolves of the 18<sup>th</sup> of February last, that nothing can be added to enforce the policy, and Necessity of the Measure; unless it be this solemn and lamentable truth, That the experience of the last Year has added further proof of the utter inefficacy of relying upon Requisitions for Supporting the Expense and Credit of the Union.

By this Requisition the States were called upon to Pay into the General Tréasury, on or before the First day of May last the Sum of Three Million of Dollars, of which one Million of Dollars was to be discharged by Specie, and Two Million of Dollars by Discounts of Interest on the Domestic Debt. The objects, for which the Monies proposed to be raised were to be appropriated, are distinctly pointed out: By this it appears that the Sum of Eight hundred and forty thousand Dollars, were absolutely and indispensibly necessary to be paid some Months since in Specie, to defray the Charges of the Civil Government, and the Interest of the Foreign Debt. What have been the Effects of this Requisition? Notwithstanding the serious and



Interesting Appeal of Congress, to the Justice and Wisdom of the several States, which soon followed it; and in which, after Stating the Public Receipts and Expenditures for the four preceeding Years, it is proved that the Receipts of the last Fourteen Months, were not adequate to the bare maintenance of the Federal Government on the most economical Establishment, and in time of profound Peace: Only Eight States out of the thirteen have passed Acts apparently complying with the Requisitions; and by such as have complied, not more than the Sum of 100,000 Dollars has been paid into the General Treasury, to the present Date, in actual Specie. In examining the Acts of the several Legislatures, part in consequence of the Resolves of the 27<sup>th</sup> September last, it is found that in most States, the Monies intended for the purposes of the Union, and those of the State are blended in the same Collection; that scarcely in any, State Funds are pointed out, by the Law for providing its Quota; and that in several, a Paper Currency is made receivable as Specie in all Payments whatsoever. To these, amongst other circumstances, may be imputed, in a great degree, the inefficacy of the Revenue Laws, in the several States, and an almost total stagnation in the payment of the general Quota's. If it be asked, to what end then, is another Requisition made whilst such heavy Balances remain still unsatisfied? The Answer is: That the United States in Congress are bound by every principle of Good Faith and Justice, and a regard to National Character to Exercise that Authority (however inadequate) which is vested in them, for obliging the different Members of the Union to Contribute their respective Quota's for the support of the general Government; and to manifest to the World, that they are not Unworthy the high, and honorable trust of watching over the Welfare of a free People.

The States will observe that in the present Requisition no less than 1,723,626 Dollars  $\frac{4}{100}$ <sup>ths</sup> ought to be forthwith raised in Specie, for the express purpose of paying the Interest, and certain Installments of Principal of the Foreign Debt, which will become due in the present, and in the course of the next Year. So vast is the Accumulation of the Debt, which has been brought on the People for want of an early and general adoption of the Resolves of Congress of the 18<sup>th</sup> April, 1783. The general Impost (therein recommended) was expressly appropriated, for the purpose of discharging the Principal and Interest of the National debt; the probable amount of it was at that time calculated at near a Million of Dollars annually: Supposing this Sum



greater than this Revenue is likely to produce in a regular state of Commerce; when the extraordinary Importations which were poured into the States for the first two Years after the Peace are taken into consideration it may safely be averred, that by the end of the Year 1787, a net Revenue would have accrued from the execution of that Plan of near Four Million of Dollars; If it had commenced its operation in the early part of the Year 1784.

It may in this place be proper to state what have been the Sums necessary to be raised in Specie for the Interest and Principal of the Foreign Debt, to the end of the Year 1787, and to compare the aggregate, with the probable amount of that Revenue to the same period. By the Schedule of the Principal and Interest due on the Foreign Loans, which was transmitted to the several States with the Act of Congress of 15<sup>th</sup> February last; it appears that the Aggregate of Principal and Interest, due

On the French and Dutch Loans to the end of the Year 1787 in dolls	....	1, 710, 044
On the Spanish Loan of 174,000 Dolls. 7 years Int	.....do	60, 900
Due to Foreign Officers and Individuals in France, say	.....do	44, 000
Due to Foreign Individuals for Principal and Interest of Debts contracted abroad, about	.....dolls	100, 000
		1, 914, 944

Deduct this Sum from the probable amount of the Impost to the year 1787 and it appears that Two Millions of Dollars of surplus Revenue might, under a proper arrangement have been applied toward the reduction of the Capital of the Domestic Debt. When to these circumstances, are added the influx of Specie from the revival of credit, and the happy effects it would have had on the present unfavorable balance of Commerce, and consequently on the Collection of Taxes throughout all the States; it is scarcely possible to foresee the extent, and number of the advantages, which would have flowed from the operation of this System.

It is a painful Task either in Nations or Individuals to call to mind circumstances of Advantage, which have escaped their Controul, and to compare a situation of present Distress, with what (under the Auspices of Heaven) would have been the direct reverse, had they availed themselves of advantages, once within their power to command.

But it is by an honest and serious examination of past Errors that Experience only is gained, and better Systems adopted in the manage-

ment of Public or Private Affairs. It becomes therefore the Duty of the Guardians of a free and enlightened People (however painful the task) to execute this high Trust, and to conceal nothing that may induce the Nation to investigate, and pursue in future their Essential Interests. It is not to be expected, that in a Government composed of thirteen independent deliberative powers, and owing its origin to an extreme Jealousy of Public Liberty, that the Judgment of the several Members of the Confederacy should at the same time embrace the Wisdom and Necessity of every Measure, which may be recommended by the General Government; particularly in the case of an untried System of Revenue, the most difficult of all objects (even in long established Governments) to carry into Execution.

The firm and enlightened Patriots throughout the States, appear impressed with the necessity of Rescuing the Union from the danger and disgrace with which it is threatened. The several Legislatures have at length passed Acts for granting to the United States in Congress the power of Levying a General Impost, to be appropriated agreeably to their Recommendations of the 18<sup>th</sup> April, 1783; and though in two States of the Union, the Laws which have been Enacted for this purpose, require some alteration, to give a general Operation to the Collection of this Revenue; from the Wisdom, and Patriotism, for which these States have been long distinguished, the United States in Congress, cannot entertain the Idea, that they will refuse to give Efficacy to a measure, whose immediate Operation is the Corner Stone of the Public Weal; or that they will take upon themselves the responsibility of all those Evils, which must inevitably devolve on the Union, by leaving the National Safety to the Mercy of Events.

Much may still be effected towards the Relief of Public Burthens, if an immediate operation is given to the Collection of the General Impost throughout the States; for though its product to the end of the ensuing Year, cannot be in any degree adequate to the Foreign Demands during that period, the Establishment of a productive System of Revenue, expressly appropriated for the discharge of the National Debt would, we trust, give success to Negotiations, for making the future Annual Payments more adequate to the resources of the Union, than they are at present. Under the heavy accumulation of the Foreign Debt, it becomes however peculiarly incumbent on the different States to exert themselves to fulfil that duty, which they owe to their own Character and the Welfare of the Confederacy;

by Enacting Laws more efficacious for bringing into the General Treasury their respective Quota's of the present Requisition, than has hitherto been the case.

To effect this great and desirable object, the Wisdom of the respective Legislatures will undoubtedly discover, that the following general principles are essentially necessary.

1<sup>st</sup>. That the Taxes intended for the purposes of the Union, should be distinct from those which are Appropriated to the service of the State.

2<sup>nd</sup>. That they should (as far as practicable) be simple in their nature, and depend more for their Execution, on the mode of the Tax, than on the diligence of the Officers entrusted with the Collection.

3<sup>rd</sup>. That the Sums raised by the Individuals should be paid in like manner, as the Quota's are receivable from the several States; that is to say, That the proportion of Specie pointed out by the Requisition should keep pace with the payment of the Discounts of Interest.

An attention to these principles would undoubtedly promote in a great degree the Collection of the Revenue.

But a far more powerful cause is still remaining, to which the Public Embarrassments as to the object of Finance, are principally to be imputed. The general Balance of our Trade is daily growing more unfavorable. In all Commercial Countries the easy and successful Collection of the Revenue must in a principle degree depend on the favorable state of Trade; and the latter cannot flourish, unless a power is somewhere vested, to cherish those Branches of Commercial Intercourse which are favorable to the Nation, and to check those of a contrary tendency. Both reason and experience demonstrate that this power (however Essential to the Welfare of the Nation) cannot be exercised by the Government of any State.

Hence it is that our Navigation (the surest source of our Wealth and Security) is nearly Annihilated; our Commerce in every part of the Globe obstructed; The Flag of our Nation insulted, and the few Mariners, who venture on the Ocean, exposed to linger out their days in all the bitterness of Captivity, from a barberous and hostile Power.

That a brave and enlightened People, who encountered every hardship and distress, in opposing a System of Government, which they deemed adverse to their Welfare and Liberty, before they had even experienced the Mischeifs, which they foresaw from its estab-

ishment, should (whilst the memory of their former Principles and Heroism, is still fresh on their Recollection,) become the Voluntary Suicides of their own Interest, their own happiness, and their own honor, is a circumstance too disgraceful to human nature to admit of Beleif.

By the Union of the several States they have rescued themselves from the Tyranny of a powerful Nation, and Established Constitutions on the free consent of the People, which are the Admiration of the Intelligent and Virtuous part of Mankind; and the firm support of the Civil and Religious Rights of all, who live under the shadow of their influence. But these Constitutions cannot long outlive the Fate of the General Union; and this Union cannot Exist without adequate Funds to defray the Expences of the Government, and to discharge those Engagements which have been entered into with the Concurrence of the Citizens of all the States, for their common Benefit.

An Appeal, (and too probably a last one) is now made to the Reason, the Justice, and the Interest of the several States. Whatever may be the fate of the Measures submitted to their Consideration for giving Strength and reputation to the Union, The United States in Congress, by Virtue of the Powers of the Confederation, call upon the different Members, to pay into the General Treasury, at the time stipulated, the Quota's laid on them respectively by the present Requisition for the Support of the General Government.

The purposes for which the Monies are to be Appropriated are fairly stated, and the Evils pointed out which will attend a non-compliance.

The delinquent States (if such there can possibly be) must take upon themselves the Responsibility for all those Calamities, which will most assuredly flow from a disregard to the Political Ties which Unite them with the other Members of the Confederacy, and to those Principles of Justice and Good Faith, which can alone Support the Existence of a Free Government.

SAMUEL OSGOOD,  
ARTHUR LEE.<sup>1</sup>

<sup>1</sup> This report is in the *Papers of the Continental Congress*, No. 139, folio 93. The letter transmitting it is in No. 140, I, folio 251. According to indorsement it was read August 31 and Monday, September 4, assigned for consideration. "Sept. 7, 1786 Com<sup>d</sup>".

FRIDAY, SEPTEMBER 1, 1786.

Congress assembled. Present as before.

A motion was made by Mr. [Charles] Pinckney, seconded by Mr. [William] Few, further to postpone the determination of the question which was yesterday postponed by the State of South Carolina: And on the question further to postpone the determination of the question, the yeas and nays being required by Mr. [Charles] Pinckney,

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore,	no	}no	Mr. Henry,	ay	}ay
Long,	no		Harrison,	ay	
<i>Massachusetts,</i>			Ramsay,	ay	
Mr. Gorham,	no	}no	<i>Virginia,</i>		
King,	no		Mr. Grayson,	ay	}ay
<i>Rhode Island,</i>			Monroe,	ay	
Mr. Manning,	no	}no	Carrington,	ay	
Miller,	no		Lee,	ay	
<i>Connecticut,</i>			<i>North Carolina,</i>		
Mr. Johnson,	no	}no	Mr. Bloodworth,	no	}no
Sturges,	no		White,	no	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Lawrance,	no	}no	Mr. Bull,	no	}div.
Haring,	no		Pinckney,	ay	
Smith,	no		Huger,	no	
<i>New Jersey,</i>			Parker,	ay	
Mr. Cadwallader,	no	}no	<i>Georgia,</i>		
Hornblower,	no		Mr. Houstoun,	ay	}ay
<i>Pennsylvania,</i>			Few,	ay	
Mr. Bayard,	no	}no			
St. Clair,	no				

So it passed in the negative.



On the question to agree to the motion, the yeas and nays being required by Mr. [William] Few,

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Livermore	ay	} ay	Mr. Henry,	no	} no
Long,	ay		Harrison,	no	
<i>Massachusetts,</i>			Ramsay,	no	
Mr. Gorham,	ay	} ay	<i>Virginia,</i>		
King,	ay		Mr. Grayson,	no	} no
<i>Rhode Island,</i>			Monroe,	no	
Mr. Manning,	ay	} ay	Carrington,	no	
Miller,	ay		Lee	no	
<i>Connecticut,</i>			<i>North Carolina,</i>		
Mr. Johnson,	ay	} ay	Mr. Bloodworth,	no	} no
Sturges,	ay		White,	no	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Lawrance,	ay	} ay	Mr. Bull,	no	} no
Haring,	ay		Pinckney,	no	
Smith,	ay		Huger,	no	
<i>New Jersey,</i>			Parker,	no	
Mr. Cadwallader,	ay	} ay	<i>Georgia,</i>		
Hornblower,	ay		Mr. Houstoun,	no	} no
<i>Pennsylvania,</i>			Few,	no	
Mr. Bayard,	ay	} ay			
St. Clair,	ay				

So it was *Ordered*, That when a question is set aside by the previous question, it shall not be in order afterwards, formally or substantially to move the same, unless there shall be the same, or as many states represented in Congress.

BOARD OF TREASURY,

August 31, 1786.

SIR: In Obedience to the Act of Congress of the 28<sup>th</sup> December last, We do ourselves the Honor of laying before them Copies of sundry Papers, which have been exhibited at this Office by the Hon'ble the Delegates of the State of N. Carolina relative to the conduct of James Hindman Esquire, Commissioner of Public Accounts for that State together with Copies of the Correspondence which has passed be-

twixt this Gentleman and the Board on the Subject of the above Communications. We have the Honor etc.

SAMUEL OSGOOD.  
ARTHUR LEE.<sup>1</sup>

His Excellency,  
The President of Congress.

MONDAY, SEPTEMBER 4, 1786.<sup>2</sup>

Congress assembled. Present, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina and Georgia; and from the State of New Hampshire, Mr. [Pierse] Long.

According to order, the Agents for the States of South Carolina and Georgia, attended, in pursuance to the act of Congress, and the notification given the 1 June, 1785, and

<sup>1</sup> This report is in the *Papers of the Continental Congress*, No. 140, II, folio 253. The correspondence referred to is on folios 257-267. According to indorsement it was read September 1 and referred to a committee September 6.

SEPTEMBER 1: The following committees were appointed: Mr. [John Bubenheim] Bayard, Mr. [Melancton] Smith and Mr. [William] Harrison, on the petition of John Chaloner and Nicholas Shaler for sea-letters for three ships. The petition is in No. 42, II, folio 218, was read this day; the committee reported September 4 and Congress acted thereon September 5.

Mr. [Edward] Carrington, Mr. [John] Henry and Mr. [David] Ramsay, on the report of the Commissioner of Army Accounts on David Henley's memorial. A report was rendered September 4.

Mr. [Arthur] St. Clair, Mr. [William] Houstoun and Mr. [William Samuel] Johnson, on the report of the Board of Treasury on the petition of Samuel Davis. See *ante*, June 12 and *post*, February 12, 1787.

Also the petition of James Gibbon was referred to the Commissioner of Army Accounts to report.

*Committee Book No. 190*

Also was read, according to indorsement, a report from the Board of Treasury, dated August 31, on a memorial from Elisha Ransom, claiming the reward for informing on forgers. The Board analyzed the claim and recommended that it be dismissed. The report is in No. 138, II, folio 281. Ransom's petition is dated February 16, 1785, and is in No. 41, VIII, folio 373.

Also was read, according to indorsement, the report of Ben. Walker, Commissioner of Accounts for Hospital, Clothing, and Marine Departments, recommending denial of the claim of Levi Walker. The report is in No. 31, folio 145.

<sup>2</sup> At this point Roger Alden begins the entry.

produced their Credentials, declaring at the same time, that they had respectively examined each others credentials, and were satisfied with the powers therein contained. The Credentials were then read, and are in the words following, viz.

STATE OF SOUTH CAROLINA.

By His Excellency William Moultrie, Esq<sup>r</sup> Governor and Commander in Chief in and over the State aforesaid: To all to whom these presents shall come, be seen or made known, Greeting: Know ye, that John Vanderhorst, Esq<sup>r</sup> who certifies the annexed to be a true copy from the original Ordinance of record, in the Secretary's Office of the said State, is Secretary of the said State, therefore all due faith, credit and authority is and ought to be had and given to his proceedings and certificate as such. In faith and testimony whereof, I have hereunto set my hand, and caused to be affixed the Great Seal of the State, in the city of Charleston, this 1st day of August, in the Year of our Lord one thousand seven hundred and eighty six, and of the sovereignty and Independence of the United States of America, the eleventh.

WILLIAM MOULTRIE.

By His Excellency's command, PETER FRENEAU, *D<sup>y</sup> Sec'y.*

With the great Seal of the state Appendant.

State of South Carolina:

At a General Assembly begun and holden at Charleston, on the third day of January, one thousand seven hundred and eighty-five, and in the ninth year of the Sovereignty and Independence of the United States of America, and from thence continued by divers adjournments, to the twenty-second day of March, in the Year of our Lord one thousand seven hundred and eighty-six.

An Ordinance to appoint Commissioners to ascertain and settle the boundaries of this State with the States of Georgia and North Carolina; and to authorize His Excellency the Governor to appoint Agents to act in behalf of this State at the federal court, in the controversy between this State and the State of Georgia, relative to boundary. Be it Ordained by the honorable the Senate and house of representatives, now met and sitting in General Assembly, and by the authority of the same, that three commissioners be chosen by joint ballot to the legislature, which commissioners, or a majority of

them, when chosen, shall be, and they are hereby invested with full and absolute power and authority, in the behalf of this State, to settle and compromise all and singular the differences, controversies, disputes and claims, which subsist between this State and the State of Georgia, relative to boundary, and to establish and permanently fix a boundary between the two States; And this state shall and will at all times hereafter, ratify and confirm all and whatsoever the said commissioners, or a majority of them, shall do in and touching the premises, and the same shall be forever binding on this state: Provided always, that the Commissioners to be appointed by the state of Georgia, shall have as extensive powers vested in them by the State of Georgia, as are above vested in the commissioners of this State: And as it may so happen that the said commissioners may not be able to settle and compromise the above differences, but it may be necessary to have the same decided by a federal court: Be it Ordained by the Authority aforesaid, that his Excellency the Governor, or Commander in Chief for the time being, be, and he is hereby empowered to appoint proper persons to prosecute the claim, and to manage the affairs of this State in the federal court, with full power and authority to do, transact, perform and execute all and every such matters and things touching the same, as shall be requisite and necessary; And this State shall and will at all times hereafter, ratify and confirm what shall be so done, transacted, performed or executed: And be it further ordained by the Authority aforesaid, that three commissioners be chosen by joint ballot of the legislature; which commissioners, or a majority of them, when chosen, shall be, and they are hereby invested with full and absolute power and authority, in behalf of this State, to settle and compromise all and singular the differences, controversies, disputes and claims which subsist between this State and the State of North Carolina, relative to boundary, and to establish and permanently fix a boundary between the two last mentioned States: And this State shall and will at all times hereafter, ratify and confirm all and whatsoever the said commissioners, or a Majority of them, shall do in and touching the premises; And the same shall be forever binding on this State: Provided always, that the commissioners to be appointed by the State of North Carolina, shall have as extensive powers vested in them by that State, as are hereby vested in the Commissioners of this State: And be it further ordained by the Authority aforesaid, that His Excellency the Gov-

ernor, or Commander in Chief for the time being, shall be, and he is hereby empowered to draw upon the treasury for any sum or sums, not exceeding ten thousand dollars, for the reasonable expenses of the said commissioners, and for carrying this ordinance into full execution.

In the Senate house, the twenty-second day of March, in the year of our Lord one thousand seven hundred and eighty-six, and in the tenth Year of the Independence of the United States of America.

JOHN LLOYD,

*President of the Senate.*

JOHN FAUCHEREAUD GRIMKE,

*Speaker of the House of Representatives.*

STATE OF SOUTH CAROLINA,

*Secretary's Office.*

I hereby certify the foregoing to be a true copy from the original Ordinance of record in this office.

Examined by JOHN VANDERHORST, *Secretary.*

State of South Carolina, By His Excellency William Moultrie, Esq<sup>r</sup>

Governor and Commander in Chief in and over the State aforesaid:

*To the honorable John Kean, Charles Pinckney and John Bull, Esqrs.*

Whereas disputes and differences have arisen and now subsist between the States of South Carolina and Georgia, concerning the boundaries of the said States, and in consequence thereof a Petition of the legislature of this State, praying that a federal court may be appointed conformably to the Articles of the Confederation to decide the same, has been presented to Congress: Whereupon Congress have resolved, that the second Monday of May next, be assigned for the appearance of the said States by their lawful Agents to proceed in the premises as by the said Articles of Confederation is directed. Now know ye, that I, resposing special trust and confidence in the abilities and integrity of you the said John Kean, Charles Pinckney and John Bull, do hereby nominate and empower you, or any two of you, as lawful Agents for and in behalf of the State of South Carolina aforesaid, to appoint Commissioners or Judges, to constitute a Court for hearing and determining the said matter in question between the said States of South Carolina and Georgia, conformably to the Articles of confederation aforesaid: And I do hereby further direct and require, that after such Commissioners or Judges are appointed, and they shall have fixed on a time and place for holding the said court, that you do



give sufficient notice thereof to me, in order that the proper persons appointed to prosecute the claim and to manage the affairs of this State in the said federal court, may attend the same. Given under my hand and the Great Seal of the State, in the city of Charleston, this eighteenth day of April, in the Year of our Lord one thousand seven hundred and eighty-six, and of the Sovereignty and Independence of the United States of America, the Tenth.

WILLIAM MOULTRIE.<sup>1</sup>

By his Excellency's command, PETER FRENEAU, *Dep'y. Sec'y.*

Georgia, By the hon. Edward Telfair, Esq<sup>r</sup> Captain General, Governor and Commander in Chief in and over the State aforesaid:

*To all to whom these presents shall come, Greeting:*

Know ye, that John Milton, Esq<sup>r</sup> who hath certified the annexed copy of an Act, entitled "An Act to appoint Agents to defend the rights of the State of Georgia, to certain territories claimed by the State of South Carolina," is Secretary of the State of Georgia aforesaid, in whose Office the Archives of the same are deposited; therefore all due faith, credit and authority are and ought to be had and given the said copy by him certified: In testimony whereof, I have hereunto set my hand, and caused the great Seal of the said State to be put and affixed at Augusta, this first day of April, in the year of our Lord one thousand seven hundred and eighty-six, and of our sovereignty and Independence the 10th.

EDWARD TELFAIR.

By his Honor's command, J. MILTON, *Sec'y.*

With the great Seal of the state Appendant.

An Act to appoint Agents to defend the rights of the State of Georgia to certain territories claimed by the State of South Carolina.

Whereas the Legislature of the State of South Carolina did present a petition dated the 24th day of March, one thousand seven hundred and eighty-five, to the United States of America in Congress Assembled, stating, that they did claim "the lands lying between the North Carolina line, and a line to be drawn due west from the mouth of the Tugaloo river to the Mississippi, because, as they contend, the river

<sup>1</sup> The original of this commission is in the *Papers of the Continental Congress*, No. 76, folio 250.

Savannah loses that name at the confluence of Tugaloo and Keowee rivers, consequently that spot is the head of Savannah river," also, the lands lying between a line to be drawn from the head of St. Mary's, to the head of the Altamaha rivers, the Mississippi river and Florida, as being within the limits of its charter, and not annexed to the State of Georgia, and praying that a federal court might be appointed to hear and determine the dispute and difference between the said two States, relative to the said territory, agreeable to the Articles of confederation and perpetual union between the United States. And whereas the said United States in Congress Assembled, by an act of Congress dated at New-York, the first day of June, one thousand seven hundred and eighty-five, did notify to the Legislature of the State of Georgia, that they had assigned the second Monday in May next for the appearance of the said States of Georgia and South Carolina, by their lawful Agents, to proceed in the premises: Now, that the just rights and jurisdiction of this State to the territories claimed by the State of South Carolina, in their petition above recited, may be properly verified, and such proceedings be had in the premises as the said Articles of Confederation and perpetual Union direct: Be it enacted by the representatives of the freemen of the State of Georgia in General Assembly met, and by the Authority of the same, that the honorable William Houstoun, George Walton and William Few, be, and they are hereby appointed Agents for this State in the dispute and difference aforesaid, on behalf of this State, and they the said William Houstoun, George Walton and William Few, or any two or more of them, are hereby fully authorized and empowered to appear and represent this State, before the United States in Congress assembled, on the second Monday in May next, and at all such other times and places, as they may thereafter direct and appoint, and by joint consent with the Agents or Commissioners for the State of South Carolina in this behalf appointed, to nominate and agree upon such persons as they may think proper to be Commissioners or Judges, to constitute a federal court, finally to determine the dispute and difference aforesaid, between the said States. And if it should so happen, that the said Agents herein before mentioned, or any one or more of them, and the Agents or Commissioners on this behalf, appointed by the State of South Carolina, cannot agree in the choice of persons so to be appointed Commissioners or Judges, to form a federal court, as aforesaid, then the said Agents herein before

appointed, or any one or more of them, shall, and they are hereby declared to have full power to name proper persons for that purpose, to be struck and commissioned by the United States in Congress assembled, according to the form pointed out by the Confederation and perpetual Union of the said United States, and to appear before the said court when legally appointed and convened; there to defend and vindicate the rights and Jurisdiction of this State, taking all due and lawful ways and means in their power, that the final issue of the said dispute and difference may be successful for this State; for which purpose they are hereby authorised and empowered to employ and engage all such counsel learned in the law, and all such solicitors as they may think proper and necessary on the trial, and in prosecution of the claim and right of Jurisdiction of this State to the territories in question, hereby confirming and establishing, whatever they the said agents, or any one or more of them, shall or may lawfully do, on behalf of this State in the premises. And be it further enacted by the Authority aforesaid, that the said Agents herein appointed, or any one or more of them, shall, and they are hereby declared to have full power, and are hereby required to examine the records of this State, and take and carry away, so that they may be produced at the trial, all such original papers and records as they may think proper, authenticated under the great seal of this State, or such sufficient authenticated copies of the same, exemplified as aforesaid, as they may deem proper, to be given in evidence on the said trial; and the Officers keeping such Offices, are hereby required to furnish the said Agents or any of them with the same, when called for, without fee or reward.

By order of the House:

WILLIAM GIBBONS, *Speaker*.

Augusta, 13th February, 1786.

Georgia, Secretary's Office:

I do hereby certify, that the foregoing is a true copy, taken from the Original Act deposited in my office.

J. MILTON, *Secretary, State of Georgia*.<sup>1</sup>

On motion of the Delegates of the said States,

*Resolved*, That the Agents for the States of South Carolina and Georgia be, and they are hereby directed to appoint, by

<sup>1</sup> The certified copy of this act is in the *Papers of the Continental Congress*, No. 76, folio 256.

joint consent, commissioners or Judges to constitute a court for hearing and determining the matter in question, agreeable to the ninth of the Articles of confederation and perpetual Union.

On a report of a committee, consisting of Mr. [Rufus] King, Mr. [Charles] Pinckney and Mr. [John] Bull, to whom was referred the Subject of the transportation of the mail for the year 1787,

*Resolved*, That the Post Master General be, and hereby is authorised and instructed to enter into contracts with sufficient security, for the conveyance of the mails by stage carriages, if practicable, for one year, commencing on the 1st day of January next, from Portland, in Massachusetts, to Savannah, in Georgia; and that the same be done by four or more separate contracts; and in case of only four contracts, the first to extend from Portland to New York; the second from New York to Philadelphia; and third from Philadelphia to Petersburg; and the fourth from Petersburg to Savannah, by such route as the Post Master General may find most convenient.

*Resolved*, That the said Post Master General be further authorised and instructed to make arrangements for the transportation of the mail for one year from the 1st day of January, 1787, on the following cross roads, at such stated periods as he shall judge necessary, viz.

From Portland to Pownalborough, in the State of Massachusetts; from Boston, in the State of Massachusetts, to the town of Concord, in New Hampshire; and from thence, through Exeter, to Portsmouth; from Springfield, in the State of Massachusetts, to the city of Albany, in the State of New York; from the city of New York, to the city of Albany, in the State of New York, and from the said city of New York to Danbury, in the State of Connecticut, and from thence to Hartford, in the said State, by the most convenient route. From the town of Baltimore to the city of Annapolis, in the State of Maryland, and from the city of Philadelphia to the town of Vienna, in the State of



Maryland; from the city of Annapolis, in Maryland, to Leonardtown, in St. Mary's county, by the route of Upper Marlborough, Piscataway and Port Tobacco. From the town of Alexandria, in the State of Virginia, to the town of Pittsburgh in the State of Pennsylvania, by the route to Leesburgh, Winchester, Fort Cumberland and Bedford; and from the city of Philadelphia to Bedford; from the town of Wilmington to Fayetteville, in the State of North Carolina, by the route of Elizabethtown; from Fayetteville, in North Carolina, to Camden, in South Carolina, and from thence to Charleston, in the same State; and from Camden, by the route of Columbia, to Augusta, in Georgia. Provided always, that nothing in this act contained shall be construed to affect the cross posts heretofore established, which are hereby confirmed. And the Post Master General is hereby farther authorised to farm the exclusive right of conveying the mail on the cross roads above enumerated, or on any of them, to any person or persons giving sufficient security for the faithful transportation of the same, for a term of not exceeding seven years. Provided that the postage of letters or packets upon such cross roads shall not exceed the rates established for the conveyance of such letters, a like distance on the main post road.<sup>1</sup>

On Motion of Mr. [John] Lawrance, seconded by Mr. [Melancton] Smith,

*Resolved*, That the Comptroller, in settling the accounts of Joshua Mersereau, be directed to pass to his credit, all such necessary sums of money as may appear to have been disbursed by him in the hire of John Mersereau, as an assistant, while acting as Deputy Commissary of Prisoners.

*Resolved*, That the Comptroller be directed, in settling the accounts of Joshua Mersereau, to allow such travelling

<sup>1</sup> This report, in the writing of Benjamin Bankson, with additions and alterations in that of Rufus King and John Bull, is in the *Papers of the Continental Congress*, No. 61, folio 533. According to indorsement it was read this day and passed. In No. 36, IV, folio 49, is a motion, undated, in the handwriting of Edward Carrington, which reads: "*Resolved*, That the Post Master Gen<sup>l</sup> be authorized and directed to make contracts with the ~~Masters and Owners of the~~ Stage Coaches on the Post roads through ye U. S. for the transportation of the Mail whenever the same can be effected ~~at the rate of~~ on terms not exceeding dollars pr mile annually for three mails a week."



charges as were necessarily incurred in the execution of his Office.<sup>1</sup>

On motion of Mr. [John] Lawrance, seconded by Mr. [Melancton] Smith,

*Resolved*, That the Commissioner of Army Accounts settle the pay due to William Smith, as an Assistant Engineer, from the first day of January, to the first day of November, 1776.<sup>2</sup>

[Motion of M<sup>r</sup> King]

That the Sec<sup>y</sup> of Congress inform M<sup>r</sup> S. H. P. that it is the expectation of congress that he does not longer delay in proceeding to the adjustment of the claims of the State of virginia under his appoint<sup>t</sup> of the        day of

The Committee [consisting of Mr. John Bubenheim Bayard, Mr. Timothy Bloodworth and Mr. John Bull] to whom was refer'd the Petition of Capt. John Paul Shott, beg leave to report: That they have consider'd said petition and conversed with Capt. Shott thereon, and are of Opinion that as the petitioner by various Accidents and Misfortunes has lost his Vouchers for the Expenditure of the Money deliver'd Him from Time to time by the Paymaster Genl. for recruiting and pay of His Company that He be credited for the Same upon His declaring upon Oath that He has paid the Sums wherewith He stands charged, whereupon the Committee submit the following resolution.<sup>4</sup>

<sup>1</sup> This motion, in the writing of John Lawrance, is in the *Papers of the Continental Congress*, No. 19, IV, folio 67.

<sup>2</sup> This motion, in the writing of John Lawrance, is in No. 19, V, folio 361. It is headed by Roger Alden: "on report of Comm<sup>r</sup> of Army Accounts."

<sup>3</sup> This motion, in the writing of Rufus King, is in the *Papers of the Continental Congress*, No. 36, III, folio 295. According to indorsement it was referred to the Secretary of Congress to take order, on September 4. Thomson's letter to Samuel Holden Parsons, in pursuance of this order, is in the *Secretary's Letter Book*, No. 18 B, under date of September 5.

<sup>4</sup> This report, in the writing of John Bubenheim Bayard, is in the *Papers of the Continental Congress*, No. 19, V, folio 293. According to indorsement it was read this day. The resolution submitted was adopted September 5 and is spread *verbatim* on the Journal of that date.

The Committee consisting of [Mr. Edward Carrington, Mr. William Henry and Mr. Nathaniel Ramsay] to whom was referred the Memorial of David Henley together with the report of the Commissioner of Army Accounts thereupon, report the following resolution *Viz.* That the said Report of the Commissioner of Army Accounts be agreed to as follows:

It appears to your Committee from the memorial of the said David Henley that he was not included in the Arrangement of the Army which took effect under the Resolutions of March 9<sup>th</sup>, 1779.

That by a Resolve of the 24<sup>th</sup> Nov., 1778, all officers which had been, or might thereafter be, by the alteration of the establishment of the Army, omitted in the arrangement thereof, were allowed one year full pay as a ~~Compensation~~ provided until they could return to civil life with advantage. That no other provision was made for deranged Officers until the Resolves of the 21<sup>st</sup> October, 1780, which gave all Officers who should be deranged by the arrangement therein directed to take effect, half pay for life, in lieu whereof the commutation of five years full pay was afterwards given. From the foregoing statement it appears to your Com. that as Col<sup>o</sup> Henley's derangement took place before the provision of the 21<sup>st</sup> of October, 1780, he can have a claim for nothing more than that contained in the Resolution of the 24<sup>th</sup> of Nov<sup>r</sup>, 1778. Whereupon the following Resolution is proposed, *Viz.*:

That the Com. of Army Accounts be directed to allow and pay to the said David Henley one years full pay upon his Commission as Col<sup>o</sup> in the service of the U. S. in pursuance of the Resolve of the 24 November, 1778.<sup>1</sup>

The Commissioner for Settling the accounts of the army to whom was referred on the 28<sup>th</sup> of June last the petition of Dun Campbell, begs leave to report:

That Mr. Campbell has exhibited an account No. 1 for expences, on an expedition ordered by General Arnold, amounting to Seventeen pounds, One shilling and 3<sup>d</sup> which account your Commissioner begs leave to observe, has been already paid in a settlement made by Mr. Campbell at Albany in May, 1777. [Acknowledged a duplicate.]

<sup>1</sup> This report, in the writing of Edward Carrington, is in the *Papers of the Continental Congress*, No. 62, folio 162. According to indorsement it was passed September 5.

That he exhibits the account No. 2 and 3 for advances made to his men in Canada, amounting to one hundred and thirty-Seven Dollars, which your Commissioner is of Opinion cannot be allowed, not only for want of Vouchers, but because that in a Settlement made with the petitioner at Crown Point in July, 1776, there was paid into his hands, the whole pay due to his Company by which he was enabled to Reimburse himself for his advances to the men then present, but he had also allowed to him expressly such sums as he himself said he had advanced to those left behind him in Canada.

That he exhibits the account No. 4 amounting to One hundred and ten pounds N. York Currency, being advances made in Canada, for enlisting men, furnishing them with arms and provisions, and paying their ferryage, on which your Commissioner has to observe, that it appears somewhat extraordinary, that it should not have been produced at the times, when Mr. Campbell Settled for and Received payment for his other advances in Canada and that there is no voucher produced of his payment of the money, which has caused your Commissioner to doubt the propriety of admitting the same without more Satisfactory evidence.

The charge included in it £21.12.0 for Bounty the Commissioner has not particularly excepted against, because it appears that the men were enlisted and that General Arnold authorised the payment, in other respects it is, however, Subject to the same objections as the other charges in this account.

All which is humbly Submitted.

JN<sup>o</sup> PIERCE.<sup>1</sup>

Office of Army Acc<sup>ts</sup>,  
Sept. 1<sup>st</sup>, 1786.

[Motion Mr. St. Clair]

Whereas the Board of Treasury in their Report of June 6<sup>th</sup> last upon the Petition of Michael Smyser seem to have considered Mr. Smyser as applying for relief in his own Person, and that he might

<sup>1</sup> This report is in the *Papers of the Continental Congress*, No. 62, folio 149. According to indorsement it was read September 4 and referred to Mr. [Nathaniel] Ramsay, Mr. [Edward] Carrington, and Mr. [Arthur] St. Clair. *Committee Book* No. 190 states that this committee reported September 14. Roger Alden's indorsement further states: "Act on report of Committee passed 19<sup>th</sup> Sept., 1786, filed. See Mem. Sept., 1788, and Report b<sup>d</sup> treasury Sep<sup>r</sup> 16<sup>th</sup>, 1788."

be put in a situation to do Justice to his Creditors, in the Business referred to ~~in the Petition~~; while the Creditors are really Soldiers who have been furnished with Arms by sundry Inhabitants upon their personal Contracts, and obliged to pay for the same out of their own pockets, and are the People to be relieved, Mr. Smyser having been an agent only, therefore resolved that the Petition of the said Michael Smyser together with the Report of the Board of Treasury be referred back to that Board for reconsideration.<sup>1</sup>

TUESDAY, SEPTEMBER 5, 1786.

Congress assembled. Present as yesterday.

On the report of a committee, consisting of Mr. [Edward] Carrington, Mr. [William] Henry and Mr. [Nathaniel] Ramsay, to whom was referred a memorial of David Henly, together with a report of the commissioner of Army Accounts thereon,

*Resolved*, That the commissioner of army accounts be, and he is hereby directed to allow and pay to the said David Henly, one year's full pay upon his commission as a colonel in the service of the United States, in pursuance of the act of 24 November, 1778.

On a report of the board of treasury, to whom was referred a memorial of R. Morris, late Superintendent of the finances of the United States, of the 23 September, 1785,

*Resolved*, That the board of treasury be, and they hereby are authorised to appoint either the Comptroller of the treasury, or such other suitable person as they may think proper, to adjust, on the part of the United States, with any person

<sup>1</sup> This motion, in the writing of Arthur St. Clair, is in the *Papers of the Continental Congress*, No. 138, II, folio 333. According to *Committee Book No. 190*, the report of the Board, together with St. Clair's motion, was referred back to the Board of Treasury to report. A report was rendered March 21, 1787.

Also was read, according to indorsement, a letter from the Board of Treasury, dated August 31, regarding the felony of John Phelon, a clerk in the office of the Commissioner of Army Accounts, and referred to the Secretary for Foreign Affairs to report. He reported September 7. The Board's letter and accompanying papers are in No. 140, II, folios 271-279.



duly authorised on the part of the State of Pennsylvania, the quantity of Specific supplies for which that state should obtain credit, by commuting the cash received from their Agent, and expended for the general service of the United States, into the specific supplies required, in order that the account of that State, for such supplies, may be finally adjusted.

On the report of a committee, consisting of Mr. [John Bubenheim] Bayard, Mr. [Timothy] Bloodworth and Mr. [John] Bull, to whom was referred a petition of John Paul Schott, late a captain in the service of the United States,

*Resolved*, That the pay master general be, and he is hereby directed, in the settlement of the Accounts of John Paul Schott, late a captain in the army of the United States, to pass to his credit such sums of money as he shall declare upon oath he hath paid for the recruiting and pay of his company, he having, by various misfortunes and accidents, lost the vouchers for the same.

The committee, consisting of Mr. [John Bubenheim] Bayard, Mr. [Melancton] Smith and Mr. [William] Harrison, to whom was referred a petition of John Chaloner and Nathaniel Shaler, praying for sea letters for sundry vessels bound to the East-Indies, having reported, "That they are assured that the ships, with their Cargoes, belong to a citizen of the United States, and are navigated by Seamen who are citizens of the United States,"

*Resolved*, That Sea letters, in the usual form, be granted for the following ships, namely,

The Ship *Betsy*, Captain Jonathan Elligood, now lying at Baltimore, in the State of Maryland, and bound to the coast of Malabar, in the East Indies:

The Ship *Leda*, Captain Nicholas Gardner, now lying at Boston, in the State of Massachusetts, and bound to the coast of Coromandel:



The ship *Hope*, Bayly Warren, Master, now lying at Norfolk, in the State of Virginia, and bound for Canton, in China.

[Motion of Mr. King.]

*Resolved*, That the authority of the Commissioners appointed to settle the accounts between the U. S. and individual States from and after the        day of        terminate and cease.

*Resolved*, That a Board consisting of        members be appointed who shall and truly are invested with all the powers and authorities of the afores<sup>d</sup> Commissioners.

*Resolved*, That said Board be and hereby are farther authorised and empowered to execute the Duties of the resolve of the        day of        in the Settlement of the public Acc<sup>t</sup>s of the late Superintendent of Finance.

*Resolved*; That there be allowed to each member of the said Board a Salary at the rate of        Dollars annually.

*Resolved*, That the commission of the s<sup>d</sup> board continue in force        years and no longer.

*Resolved*, That where any State has claims ag<sup>t</sup> the U. S. not authorized or sanctioned by existing Resolves of Congress, the same shall be laid before the afores<sup>d</sup> board with[in]        years, who shall examine the same and Report such decision thereon to Cong. as shall accord with Justice and Equity.<sup>1</sup>

[Motion of delegates of Virginia]

*Resolved*, That the ~~powers~~ Authority of the Commissioners heretofore appointed to adjust and Settle the Accounts between the United States and individual States, shall from and after the day of        next terminate and cease.

*R.*, That a Board to consist of        Members be appointed who shall be and hereby are invested with all the powers and authorities exercised by the said Commissioners and shall sit where Congress may direct.

<sup>1</sup> This motion, in the writing of Rufus King, is in the *Papers of the Continental Congress*, No. 26, folio 623. According to indorsement it was referred to the committee of August 9 on King's motion of that day. *Committee Book No. 190* notes that the August 9 committee was renewed September 5.

And whereas from the irregular necessities and demands of the service, and various other causes, expenditures have been made in several of the States for the use of the Union which are not sanctioned by Resolutions of Congress or orders of Officers qualified to give authority to them, and in other more fortunate States similar expenditures are so Sanctioned, and it is just and right that all expenditures bona fide, made for the Common good, be now confirmed and brought into the Common debt. Therefore

*Resolved*, That the said Board be and are hereby authorized and directed in all cases of claims for expenditures, in their nature and circumstances, similar to those which stand covered by any particular or general Resolution of Congress, to admit and adjust the same notwithstanding any defect as to legal authority.

And in cases where no written Vouchers are or can be produced, and the Board shall receive satisfactory evidence that such Vouchers have been destroyed or unavoidably lost, or that from circumstances of the case they have never been obtained, they may receive such other evidence as shall be satisfactory to them, but the best that the nature and circumstances of the case will admit of, and at their discretion may examine on oath any person or persons they may think fit, respecting the claims which shall be exhibited for settlement, whether accompanied with written Vouchers or not, when the other evidence is not sufficient to satisfy them of the truth or justice thereof.

*Resolved*, That all claims which shall be exhibited to the said Board for settlement not in their opinion, admissable upon the principles established for their government, shall by them be reported to Congress with the circumstances and evidence attending the same, and their opinion thereupon, for final decision.

*R.*, That each of the said Commissioners be allowed and paid dollars per diem while they shall respectively attend upon their duties of their appointment including the time of travelling to and from the place of their sitting.<sup>1</sup>

<sup>1</sup> This motion, in the writing of Edward Carrington, is in the *Papers of the Continental Congress*, No. 26, folio 627. According to indorsement it was referred to the same committee to which King's motion, *ante*, was referred, with Carrington, Mr. [William] Henry, and Mr. [John] Kean added. Both the indorsement of Carrington's motion and *Committee Book No. 190* note, apparently, that Rufus King was dropped from the committee. A report was rendered September 18.

WEDNESDAY, SEPTEMBER 6, 1786.

Congress assembled. Present, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina and Georgia; and from New Hampshire, Mr. [Pierse] Long, and from Massachusetts, Mr. [Nathaniel] Gorham.

On a report of the board of treasury,

*Resolved*, That when the Agents, appointed to issue certificates for the balances due to the corps of the late army not appertaining to any State, shall produce to the Comptroller of the treasury, a certificate from the Commissioner of Army Accounts, purporting the final adjustment of their Accounts and the Amount of the certificates by them respectively issued, there be allowed and passed to their several credits on the books of the treasury, a commission of one per cent. on the amount of the certificates by them respectively issued.<sup>1</sup>

In Carrington's motion the 3<sup>d</sup>, 4<sup>th</sup>, and 6<sup>th</sup> paragraphs have a pen line through them, which seems to have been added after the motion was made.

SEPTEMBER 5: The following committee was appointed: Mr. [John Bubenheim] Bayard, Mr. [William] Harrison, Mr. [William] Henry, on the "Report of Com<sup>t</sup> of Army Acco<sup>ts</sup> on Mem<sup>t</sup> A. Baird." This committee "disch<sup>d</sup> referred to another Com<sup>ee</sup> 12 Feb<sup>y</sup>" [1787].

*Committee Book No. 190.*

<sup>1</sup>SEPTEMBER 6: The following committees were appointed: Mr. [Melancton] Smith, Mr. [John Cleves] Symmes and Mr. [John Bubenheim] Bayard, on the "Report on pet. Elijah Hunter." A report was rendered October 16. This was a renewal of the committee of July 22, 1785, on the same petition.

Mr. [William] Harrison, Mr. Edward Carrington and Mr. Henry Lee, on the petition of John Lesure and Nathan Watkins and "reports of Com<sup>t</sup> of army acco<sup>ts</sup>" on same. A report was rendered September 14. Lesure's petition, dated September 5, is in No. 42, IV, folio 414. The reference to a committee was in accordance with the report of the Secretary of Congress on same, September 6. The Secretary's report is entered in No. 180, *Reports of the Secretary of Congress*.

Mr. [Henry] Lee, Mr. [William] Few and Mr. [Timothy] Bloodworth on "Letter of board of treas<sup>y</sup> relative to James Hindman." See *ante*, September 1; a note, added at some later unknown date by Thomson, is: "discharged."

## THURSDAY, SEPTEMBER 7, 1786.

Congress assembled. Present as yesterday.

On the report of a committee, consisting of Mr. [Edward] Carrington, Mr. [John Cleves] Symmes and Mr. [Nathan] Dane, to whom was referred a petition of Robert Patton.

*Resolved*, That Robert Patton be allowed and paid in full for extra services to this time, the sum of two hundred and eighty-three dollars and thirty-ninetieths of a dollar, deducting therefrom one hundred and eighty-five dollars already paid him, and that the board of treasury take Order herein.

On reports of the Secretary at War, to whom was referred the petitions of Caleb Bruen and Thomas Pool,

*Resolved*, By 9 States That the board of treasury pay to Caleb Bruen, the sum of three hundred dollars, as a compensation for his services and sufferings in the cause of the United States during the late War.

*Resolved*, By 9 States That the board of treasury take Order for the payment of one thousand and ninety-seven dollars, to Mr. Thomas Pool, as a reward for the personal and pecuniary injuries he sustained in the service of the United States during the late War.

Mr. [Henry] Lee, Mr. [Arthur] St. Clair and Mr. [John] Bull, "To form a system of Etiquette to be observed at the court of the U. S." This was a renewal of the committee of August 19, 1785, on the motions of Mr. [Elbridge] Gerry and Mr. [Charles] Pinckney. A report was rendered September 18.

Mr. [Edward] Carrington, Mr. [Timothy] Bloodworth and Mr. [William] Harrison on "A Motion for reprinting Journals of 1777, 1780, 1781-2." A report was rendered September 13. [The motion was made by Timothy Bloodworth.]

A petition of Joseph Cone, deputy quarter master, for settlement of his accounts, was referred to the Board of Treasury. *Committee Book No. 190.*

Also, according to indorsement, was read a letter of September 5 from the Board of Treasury, reporting that Job Sumner, Commissioner of Accounts for the State of Georgia, had absented himself from his post without leave, and the reasons therefore. It is in No. 138, II, folio 429. See *post*, September 7.



OFFICE FOR FOREIGN AFFAIRS,  
6<sup>th</sup> Septem<sup>r</sup>, 1786.

The Secretary of the United States for the Department of foreign Affairs to whom was referred a Letter of 31<sup>st</sup> Ul<sup>r</sup> from the Honorable the Commissioners of the Treasury to his Excellency the President of Congress, with Papers therein mentioned, reports;

That from the said Letter and papers it appears, that John Phelon a confidential Clerk in the Office of John Pierce, Esq<sup>r</sup>, Commissioner of Army Accounts, had absconded; and that there is Reason to believe he was gone to Canada. That there is also Reason to suppose, that he had taken some of the certificate paper of that Office, and counterfeited thereon the Securities of the United States.

On this Case the first Question seems to be, whether it would be proper to apply to the Governor of Canada to permit and facilitate the Apprehension of Phelon, within his Province; and secondly whether it should be on the Ground of Right or of Favor.

In the Opinion of your Secretary the Laws of Nations do not impose a perfect Obligation on the Sovereign into whose Dominions *such an Offender* may fly, to deliver him to the one against whom he had Committed the Offence. He therefore thinks no such application should be made on the Ground of Right.

If Nations were by general Consent to refuse an Asylum to each others fugitive Offenders, and on Requisition deliver them up to Justice, it would doubtless much discourage the Commission of Crimes. If such a Practice would be beneficial to Society in general, it could not be improper for any particular Nation to set the Example and begin it, and as the United States border on extensive Dominions of the King of Great Britain, a proper Agreement on this Subject might be convenient and useful to both. On these and similar Considerations, a Request in the present Case to the Governor of Canada might be founded and be adviseable, were it not for some Objections of considerable Weight.

It is probable that without particular Instructions from his Court, the Governor would not conceive himself authorized to comply with such a Request, and Prudence restrains Sovereigns from making Requests while they have Reason to doubt the Success of them.

But admitting that his britannic Majesty, or any other Sovereign, or their Governors, would on such a Request comply with it, yet, as it would be improper for one Nation to ask that of another, which



under similar Circumstances they could not grant, it may be well to look forward and enquire what Congress would do with a Request of the same kind. Have they Power to cause any such Offender to be apprehended and delivered to the offended Sovereign? If they have not, can they rely on the invariable Compliance of the individual States, with their Recommendations for that Purpose? Your Secretary thinks that neither is the Case, and that no Request should be made to the Governor of Canada respecting the Fugitive in Question.

With respect to such other Measures as it may be expedient to take on the Occasion, your Secretary is of Opinion that the same should be referred wholly to the Discretion of the Honorable the Commissioners of the Treasury, and that they be authorized to offer a Reward of       Dollars for the Apprehension of the said John Phelon.

All which is Submitted to the Wisdom of Congress.

JOHN JAY.<sup>1</sup>

MONDAY, SEPTEMBER 11, 1786.

Congress assembled. Present, Connecticut, New York, New Jersey, Maryland, Virginia, North Carolina, South Carolina, and Georgia; and from New Hampshire, Mr.

<sup>1</sup> This report is in the *Papers of the Continental Congress*, No. 81, II, folio 175. According to indorsement it was read September 7. *Committee Book No. 189* states that it was transferred.

SEPTEMBER 7: The following committees were appointed: Mr. [William Samuel] Johnson, Mr. [William] Henry, Mr. [John] Kean, Mr. [Edward] Carrington and Mr. [Melancton] Smith, on the Address to the States. A report was rendered October 6. See *ante*, August 31.

Mr. [John Bubenheim] Bayard, Mr. [William] Hindman and Mr. [Arthur] St. Clair, on "Report of board of treasury on memorial A. Caldwell." This was a renewal of the committee of May 30. Report was rendered September 14.

The letter of September 6 from Job Sumner and the report of the Board of Treasury thereon was referred back to the Board which reported September 18.

*Committee Book No. 190.*

Also, according to indorsement, was read a letter of September 6 from the Secretary for Foreign Affairs, forwarding letter from Colonel William Stephens Smith regarding Spain. It is in No. 80, III, folio 61.

Also was read two letters of September 7 from the Secretary for Foreign Affairs, relative to a letter from Thomas Barclay giving French port expenses of American and Spanish vessels, and concerning the application of Christian Andrew Tilebein for appointment as consul at Barcelona. Jay's letters are in No. 80, III, folios 65 and 69, respectively.

[Pierse] Long; from Massachusetts, Mr. [Nathaniel] Gorham, and from Pennsylvania, Mr. [John Bubenheim] Bayard.

The Agents of the state of South Carolina, report:

That the agents of the States of South Carolina and Georgia, have not been able to agree upon the appointment of Judges, and the fixing the time and place for holding the Court for hearing and determining the matter in question between the said states, and thereupon,

The Agents of South Carolina pray, That Congress will proceed on Wednesday next, to strike a court agreeable to the confederation, for the trial of certain territorial claims between the states of South Carolina and Georgia, to be held at such time and place as Congress shall determine, immediately after the appointment of the judges to constitute the said court.

*Ordered*, That the Agents for Georgia be furnished with a copy of the said report and prayer.

The Grand Committee consisting of [M<sup>r</sup> Pierse Long, M<sup>r</sup> Nathaniel Gorham, M<sup>r</sup> Stephen Mix Mitchell, M<sup>r</sup> John Lawrance, M<sup>r</sup> John Cleves Symmes, M<sup>r</sup> John Bubenheim Bayard, M<sup>r</sup> William Harrison, M<sup>r</sup> Edward Carrington and M<sup>r</sup> John Kean] who have had under their consideration the plan for regulating the Militia of the United States (submitted to Congress by their secretary of war), having fully examined the same, are of opinion That it be recommended to the respective States for their Adoption, it being such a system of Military regulation, as will if carried into execution not only put their Militia upon a very respectable but formidable footing.<sup>1</sup>

The Board of Treasury to whom the Petition of Captain John Paul Schott was referred on the 18<sup>th</sup> August, last, praying that he may be paid in Specie for the Balance due on a Settlement of his Claims against the United States with the Commissioner of Army Accounts, beg leave to Report:

That, since the above Reference a Settlement has been made with the Memorialist by the said Commissioner, and a Certificate issued to him for the Balance, being Two hundred and sixty-five Dollars, and Eighty-Ninetieths of a Dollar.

<sup>1</sup> This report, in the writing of Pierse Long ?, is in the *Papers of the Continental Congress*, No. 27, folio 313. According to indorsement it was read September 11. *Committee Book No. 189* notes that it was transferred. See *ante*, April 4.

As neither the State of the Finances, or the peculiarity of Mr. Schott's case, will in the opinion of this Board, admit the payment of the above Balance, in a manner different from the General line of Settlement to the late Army, the Board submit to the consideration of Congress the following Resolve:

That Captain John Paul Schott be informed, that the Prayer of his Petition cannot be complied with.

On that part of the Memorial which relates to the issue of a Brevet Commission to the said Captain John Paul Schott as a Major in the late American Army, The Board are of Opinion,

That the same be referred to the Secretary at War.

All which is humbly Submitted.<sup>1</sup>

September 11<sup>th</sup>, 1786.

Whereas several of the states in the Union have from the peculiar circumstances of their situation been obliged to assume debts due from the United States to individuals, citizens of the said states for supplies furnished for the use of the federal army from the first day of January, 1780, in the settlement of which doubts have arisen with the commissioners of the United States respecting the powers given them under subsisting resolutions of Congress to settle and adjust the said claims upon the same principles as if they had remained in the hands of the individuals.

And Whereas it is just and reasonable that the demands of a state arising as aforesaid from assumptions of debts due from the United States to individuals for supplies furnished the federal army should be liquidated and settled upon the same principles as other demands against the Union: Therefore

*Resolved*, That where supplies have been furnished by individuals for the use of the army of the U. S. from the last day of January, 1780, and have been assumed by any state, the commissioner for settling the accounts of such state with the U. S. is hereby authorised and instructed to liquidate such claims upon the same principles as tho' they had remained in the hands of the individuals and admit them as a charge against the U. S.: provided that nothing contained in this resolution shall be taken or construed to prejudice or effect,

<sup>1</sup> This report, signed by Samuel Osgood and Arthur Lee, is in the *Papers of the Continental Congress*, No. 138, II, folio 369. According to indorsement it was acted on September 12.

the resolutions of February 25 and of the 1<sup>st</sup> of June, 1780, or any other resolution allowing a state payment for supplies furnished to the United States.<sup>1</sup>

The Committee consisting of Mr. [Rufus] King, Mr. [William] Grayson and Mr. [Charles] Pinckney to whom was referred a report of the Secretary for foreign affairs on a note from the Encargado de negocios of his catholic majesty of the 30<sup>th</sup> June, Report that in their opinion it should be:

*Resolved*, That the United States are sincerely disposed to conduct their negotiations with his catholic majesty with the greatest candor and good humour and if possible to terminate them by a treaty founded on such principles of equality and perfect reciprocity as may perpetuate the peace and friendship which happily subsists between them and his subjects and their citizens.

*Resolved therefore*, That unless all questions relative to the boundaries of Florida shall (as they hope will be the case) be settled by mutual agreement, the United States will cheerfully consent and be ready to appoint commissioners who together with others to be appointed by the Court of Spain shall proceed with all convenient dispatch to precisely fix and determine the boundaries of respective powers agreeable to those mentioned in the definitive treaty of peace between his Britannic Majesty and the United States.

And as it is the earnest wish and desire of the U. S. that these proceedings may be carried on in the most friendly manner and may not be interrupted or impeded by any offensive or irritating measures on either side, it is farther

*Resolved*, That a copy of the above mentioned note be transmitted by the Secretary for foreign Affairs to the Government of Georgia and that he be informed That Congress have received with regret repeated complaints of the conduct of some people in that state towards the Spaniards and that they hope and expect such measures will be taken as may prevent the like in future.

*Resolved*, That the State of Georgia be farther informed, that the liberality and friendship of his catholic majesty manifested in many

<sup>1</sup> This motion, in the writing of Charles Pinekney, is in the *Papers of the Continental Congress*, No. 26, folio 631. According to indorsement it was referred to Mr. [Melaneton] Smith, Mr. [Pierce] Long, Mr. [William Samuel] Johnson, Mr. [John] Bull, Mr. [Edward] Carrington, Mr. [William] Henry, and Mr. [John] Kean. According to *Committee Book No. 190* a report was rendered September 18. See *ante*, September 5.



recent instances towards the U. S. leave no room to apprehend that he wishes to adhere to any claims of territory other than those fixed and determined by the definitive treaty with G. Britain as the boundaries between the U. S. and the Floridas, or to extend his dominion at the expence of that justice and magnanimity for which he is signalized.

That the U. S. (*however tenacious of and determined to assert their just rights*) have still confidence in the integrity and set a high value on the friendship of his catholic majesty, they are exceedingly anxious to evince the reality of these sentiments by a correspondent conduct and to restrain and punish all such excesses of rash and inconsiderate adventurers as may give just cause of umbrage to the Spanish government.

*Ordered,* That a copy of the above resolutions be given to the said Encargado de negotios.<sup>1</sup>

<sup>1</sup> This report, in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 25, II, folio 463. According to indorsement it was read September 11.

SEPTEMBER 11: The following committee was appointed: Mr. [Charles] Pinckney, Mr. [Melancton] Smith, Mr. [Josiah] Hornblower, Mr. [John] Kean and Mr. [Edward] Carrington, on the report of the committee respecting the Algerines. This committee was renewed February 12, 1787. See *ante*, August 8.

Also the "Memorial of Capt. Grig to be admitted to the benefit of an Invalid" was referred to the Commissioner of Army Accounts to report and a report rendered September 14. Gregg's memorial is in No. 41, III, folio 550. According to indorsement it was read September 11 and "Sept 21st. Received from the Secretary of Congress a Certificate which came enclosed in the memorial. James Gregg."

Also the Board of Treasury was directed to take order on "Their letter of 9, stating that they find that it will be probably necessary that authority should be given by Congress to the Comptroller of the treasury of the U. S. to unite in chusing an umpire in case he sho<sup>d</sup> not be able to agree on an adjustment of the Acco<sup>t</sup> with the person for such purpose appointed on the part of the State of Pennsylv<sup>a</sup>. That sho<sup>d</sup> the U. S. in Congress approve this measure they (the b<sup>d</sup> of treas<sup>r</sup>) will give instructions to the Comptroller of the treas<sup>r</sup> to agree to such an Appointm<sup>t</sup> if circumstances should in his Opinion render it expedient."

*Committee Book No. 190.*

Also, according to indorsement, a memorial of George Fisher for depreciation due him, was read. It is in No. 42, III, folio 147.

Also, was read a letter, dated August 13, from Thomas Hutchins, reporting conditions on the frontier and survey work in the Western Territory. It is in No. 60, folio 249.



TUESDAY, SEPTEMBER 12, 1786.

Congress assembled. Present, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina and Georgia; and from New Hampshire, Mr. [Pierse] Long, and from Massachusetts, Mr. [Nathaniel] Gorham.

On the report of a Committee, consisting of Mr. [Charles] Pinckney, Mr. [John Bubenheim] Bayard and Mr. [William Samuel] Johnson, to whom was referred a report of the commissioner of Army Accounts, on the memorial of the rev<sup>d</sup> Robert Smith,

*Resolved*, by 9 States, That the board of treasury take Order for paying to the rev<sup>d</sup> Robert Smith, the sum of three hundred and forty-five dollars, being for eleven months and an half pay, as one of the Officers of the hospital department, detained in Charleston after its surrender to the British troops, in consideration of the extra expences incurred by him in the performance of his duty as chaplain to the Southern hospital.

On a report of the board of treasury, to whom was referred a memorial of Cornelius Decker,

*Resolved*, That if the matter set forth in the memorial of Cornelius Decker, should, on a proper enquiry by the Commissioner of the loan Office for the state of New York, be found well supported, the said Commissioner be directed to cancel the certificate issued to the said Cornelius Decker on Account of monies by him deposited in the said Office, and to issue another for the same Amount, bearing date at the time the monies were loaned, taking care to endorse the interest, if any, which has been paid on the certificate by him cancelled.

## OFFICE OF SECRETARY OF CONGRESS,

Sep. 12, 1786.

On the petition of Geo. Fisher heretofore employed in baking hard bread for the army stating his losses by means of the payments made him in depreciated money &c.; and

On the petition of Edward Tuckerman in behalf of Jane Richardson wife of James Richardson, praying that a certificate of the balance due to said James Richardson may be delivered to him for the use of the said Jane as her husband has been absent from his family a long time and has not been heard of for 18 months past; and

On the petition of Rich<sup>d</sup> Lloyd praying that the 1 pr. cent granted by the Resolution of the 6<sup>th</sup> to the Agents of regiments not belonging to any particular State, may be paid in cash as soon as the finances of the U. S. will admit.

The Secretary of Congress reports:

Agreed. That the petition of Geo. Fisher, be referred to the board of Treasury.

Agreed. That the petition of Edward Tuckerman be referred to the board of treasury.

Agreed 12 Sept. That the petition of Rich. Lloyd be referred to the board of treasury.<sup>1</sup>

## OFFICE FOR FOREIGN AFFAIRS,

18 August, 1786.

The Secretary of the United States for the Department of Foreign Affairs, to whom was referred back his report of 4 July, 1785, on the Consular Convention between France and the United States, Reports:

That in his opinion a Copy of that report should be transmitted to the Minister plenipotentiary of the United States at Paris, in order that he may thereby become fully informed of the objections to which the Convention is liable.

That a Certified Copy of the Act of Congress of the 25 day of January, 1782, authorizing and directing the Honble: D<sup>r</sup> Franklin to conclude a Consular Convention be also sent to him.

That a certified Copy of the Scheme of such Convention, referred to in the above Act of Congress, be also sent to him.

That he be instructed to communicate the said Act of Congress, and the said Scheme, to his most Christian Majesty and to point out

<sup>1</sup> This proceeding is entered by Thomson in *Reports of the Secretary of Congress*, No. 180. Fisher's petition, dated September 11, is in No. 42, III, folio 147. According to *Committee Book No. 190* a report was rendered February 3, 1787.

to him the instances in which the Convention deviates from the said Scheme.

That he be also instructed to propose to his Majesty that the said Convention be so amended, as perfectly to correspond with the Scheme in every part where a deviation from the same is not permitted by the said Act, and further that he represent to his Majesty, the desire of Congress to make the said Convention probationary, by adding a Clause for limiting its duration to eight or ten years.

That he assure his Majesty of the determination of Congress to observe on all occasions the highest respect for Candor and good faith in all their proceedings, and that on receiving the Convention so amended, and with such a Clause, they will immediately ratify it.

Your Secretary thinks it should also be resolved, That the Hon<sup>ble</sup> Thomas Jefferson Esq., the Minister plenipotentiary of the United States at the Court of Versailles be, and he hereby is authorised and directed, to conclude and sign on the part of the United States, with the Minister of his Most Christian Majesty having equal powers, a Convention for the regulation of their respective Consuls, conformably to the Scheme abovementioned, in every respect except where deviations from it are permitted by the said Act of Congress of the 25 day of January, 1782, and with a Clause limiting the duration of the said Convention to any term of years not exceeding ten.

Your Secretary thinks he should be directed to write the following Letter to M<sup>r</sup> Jefferson:

“SIR: I have the honor of transmitting to you herewith enclosed the following papers to wit:

“N<sup>o</sup> 1. A Copy of the Consular Convention signed by the French and American plenipotentiaries.

“2. A Copy of the Act of Congress under which the American plenipotentiary signed the same.

“3. A Copy of the Scheme of a Convention mentioned and referred to in the said Act.

“4. A Copy of a Report on the said Convention.

“5. A Copy of an Act of Congress, containing instructions and giving authorities to you on the subject of the said Convention.”

These papers will possess you fully of the whole business. I am persuaded that it will appear to you as it does to Congress, to be a delicate one, and to require delicate management.

The original Scheme of the Convention is far from being unexceptionable, but a former Congress having agreed to it, it would be

improper now to recede; and therefore Congress are content to ratify a Convention made Conformable to that Scheme, and to their Act of the 25 day of January, 1782, provided a Clause limiting its duration be added.

It will be proper therefore to press on the Court, only such objections to the Convention, as arise from its departure from the Scheme. On making an accurate comparison, such departure will appear manifest to his Majesty, and there is reason to expect from his candour, that he will readily consent to remove the objections occasioned by it.

As it certainly is wise to try the merits of Institutions entirely new, by actual experience, before nations adopt them forever, the propriety of rendering this Convention probationary in the first instance, is unquestionable. Congress cannot therefore presume that his Most Christian Majesty will object to a Clause for limiting its duration. The design of this Convention being for mutual and reciprocal benefit and convenience, it would be doing injustice to his Majesty, to suppose that he would wish to provide for its existing longer than it should prove useful and satisfactory.

If after the experience of a few years it should be found to answer the purposes intended by it, both parties will have sufficient inducements to renew it, either in its present form, or with such alterations and amendments as time, experience, and other circumstances may indicate.

I have the honor &c., &c., &c.<sup>1</sup>

<sup>1</sup> This report is in the *Papers of the Continental Congress*, No. 81, II, folio 145. According to indorsement it was read September 12 and referred to Mr. [William Samuel] Johnson, Mr. [Arthur] St. Clair, Mr. [Charles] Pinckney, Mr. [William] Henry, and Mr. [Henry] Lee. *Committee Book No. 190* states that this committee was discharged October 2.

SEPTEMBER 12: The following committees were appointed: Mr. [William] Henry, Mr. [Arthur] St. Clair and Mr. [William Samuel] Johnson, on "Capt. Allen McLean's Acco<sup>ts</sup> and observations thereon by the Com<sup>rs</sup> of Army Acco<sup>ts</sup>". This committee was renewed February 12, 1787. See *post*, October 18.

Mr. [John] Kean, Mr. [Arthur] St. Clair and Mr. [Charles] Pinckney, on "a draught of a deed of Cession of Connecticut's claim to Western territory." A report was rendered September 14. The draft is in No. 30, folio 507.

Mr. [Edward] Carrington, Mr. [John Bubenheim] Bayard and Mr. [William Samuel] Johnson, on the "Petition of D. Henley for paym<sup>t</sup> of certain expences." Report was rendered September 19. Henley's petition is in No. 42, III, folio 562.

Also "So much of petition of John P. Shott as relates to the issue of a brevet of Major" was referred to the Secretary at War to report.



WEDNESDAY, SEPTEMBER 13, 1786.

Congress assembled. Present, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, and Georgia; and from New Hampshire, Mr. [Pierse] Long.

On the report of a committee, consisting of Mr. [Edward] Carrington, Mr. [Timothy] Bloodworth, and Mr. [William] Harrison, to whom was referred a motion of Mr. [Timothy] Bloodworth,

*Resolved*, That the Secretary of Congress take order for having printed and bound in the usual manner, five hundred volumes of the Journals of Congress for each of the years 1777, 1778, 1780, 1781 and 1782.<sup>1</sup>

The Agents for South Carolina and Georgia attending:

The Agents for the State of Georgia, for answer to the Notice given them of the report and prayer of the Agents of South Carolina, say that they have attended agreeable to the order of Congress, but have not been able finally to agree with the agents of South Carolina upon the proper time for holding the said federal Court; that they are desirous to proceed in such manner as that a legal and righteous decision may be had in this cause, and that by the act of the legislature of the State of South Carolina, passed on the 22d day of March, 1786, three Commissioners are to be chosen and invested with full and absolute power and authority in behalf of the said state, to settle and compromise all and singular the differences, controversies, disputes and claims which subsist between that state and the state of Georgia relative to boundary, and to establish and permanently fix the boundaries between the said states, provided the state of Georgia will appoint and vest commissioners with equal powers; and if it should so

Also the "Petition of And. McFarlane for year's pay as deranged Officer" was referred to the Commissioner of Army Accounts to report. McFarlane's petition of April 14, is in No. 42, V, folio 375.

Also the "Sentence of a court martial on John Van Vorhees" was referred to the Secretary at War to report.

*Committee Book No. 190.*

<sup>1</sup> This report, in the writing of Edward Carrington, is in the *Papers of the Continental Congress*, No. 23, folio 305. According to indorsement it was read this day.



happen that the said Commissioners may not be able to settle and compromise the said differences, then and in that case only, the governor of South Carolina is authorised to appoint and direct agents in behalf of that state, to proceed agreeably to the 9th of the Articles of Confederation, finally to determine the dispute subsisting between the said states of South Carolina and Georgia, respecting their territorial claims: That the Legislature of the State of South Carolina did, on the        day of        appoint three commissioners, vested with the powers and for the purpose aforesaid, and transmit information thereof to the state of Georgia, requesting that state to appoint and vest commissioners with sufficient power, mutually to settle and compromise all differences between the said states respecting their territory and boundary: That the State of Georgia has not yet had reasonable time to decide on the proposition made by South Carolina and to transmit the result. Under these circumstances, the Agents of the State of Georgia suggest, that the Agents of the State of South Carolina, are not legally authorised to press that Congress should immediately proceed, agreeably to the 9th of the Articles of Confederation, for a speedy and final decision in this cause; that they, notwithstanding, relying on the wisdom, equity and Justice of Congress, are content to act in such manner as they may direct.

A motion was then made by the delegates of Georgia, That Congress proceed to strike a court in the manner pointed out by the Confederation, for the trial of certain territorial claims between the States of South Carolina and Georgia, to be held at the city of New York, on the first Monday in May next:

The latter part of the motion being postponed,

On the question, *Resolved*, That Congress proceed to strike a court in the manner pointed out by the Confederation, for the trial of certain territorial claims between the States of South Carolina and Georgia.

Accordingly Congress proceeded, and named three persons out of each of the United States, and from the list of such persons, each party alternately struck out one, the petitioners beginning, until the number was reduced to thirteen:

This done, & On motion ~~was made by~~ of the delegates of South Carolina, ~~that from the thirteen names left nine~~

names be drawn out by lot and on the question to agree to this the yeas and nays being required by the delegates of Georgia

<i>New Hampshire,</i>			<i>Maryland,</i>			
Mr. Long,	ay	*	Mr. Henry,	ay	} ay	
<i>Massachusetts,</i>			Hindman,	ay		
Mr. Gorham,	ay	} ay	Harrison,	ay		
Dane,	ay			Ramsay,	ay	
<i>Connecticut,</i>			<i>Virginia,</i>			
Mr. Johnson,	ay	} ay	Mr. Carrington,	ay	} ay	
Sturges,	ay			Lee,		ay
<i>New York,</i>			<i>North Carolina,</i>			
Mr. Haring,	ay	} ay	Mr. Bloodworth,	no	} div.	
Smith,	ay			Waite,		ay
<i>New Jersey,</i>			<i>South Carolina,</i>			
Mr. Cadwallader,	ay	} ay	Mr. Pinckney,	ay	} ay	
Symmes,	ay			Kean,		ay
Hornblower,	ay			Parker,		ay
<i>Pennsylvania,</i>			<i>Georgia,</i>			
Mr. Bayard,	ay	} ay	Mr. Houstoun,	no	} no	
St. Clair,	ay			Few,		no

So it was

*Resolved,* That from the thirteen names left, nine names be drawn out by lot;

The names being then put into a box, the following were in the presence of Congress drawn out by lot, namely, ALEXANDER CONTEE HANSON, JAMES MADISON, ROBERT GOLDSBOROUGH, JAMES DUANE, PHILEMON DICKINSON, JOHN DICKINSON, THOMAS MCKEAN, EGBERT BENSON, WM. PYNCHON.<sup>1</sup>

<sup>1</sup> SEPTEMBER 13: On this day, according to indorsement, was read a memorial from Leake Hunt, John De La Mater, and Cornelius I. Bogart, executors of John Berrien, praying relief in their settlement of the estate. It was referred to the Commissioner of Hospital Accounts to report and a report rendered September 18. See *post*, September 25.

THURSDAY, SEPTEMBER 14, 1786.

Congress assembled. Present, as yesterday.

A motion being made by the delegates of Georgia, That the court for hearing and determining the matter in question between the States of South Carolina and Georgia, be held at the city of New York, on the first Monday in May next.

A motion was made by the delegates of South Carolina, to postpone the motion of the delegates of Georgia, in order to take up the following:

That the federal court appointed to decide the territorial dispute between the States of South Carolina and Georgia, be summoned to meet on the third Monday in November next:

And on the question to postpone for the purpose above mentioned, the yeas and nays being required by the delegates of South Carolina,

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Long,	no	}*	Mr. Henry,	no	}no
<i>Massachusetts,</i>			Hindman,	no	
Mr. Gorham,	no	}no	Harrison,	no	
Dane,	no		Ramsay,	no	
<i>Connecticut,</i>			<i>Virginia,</i>		
Mr. Johnson,	no	}no	Mr. Carrington,	no	}div.
Sturges,	no		Lee,	ay	
<i>New York,</i>			<i>North Carolina,</i>		
Mr. Lawrance,	no	}no	Mr. Bloodworth,	no	}div.
Haring,	no		White,	ay	
Smith,	no		<i>South Carolina,</i>		
<i>New Jersey,</i>			Mr. Pinckney,	ay	}ay
Mr. Cadwallader,	no	}no	Kean,	ay	
Symmes,	no		Parker,	ay	
Hornblower,	no		<i>Georgia,</i>		
<i>Pennsylvania,</i>			Mr. Houstoun,	no	}no
Mr. Bayard,	no	}div.	Few,	no	
St. Clair,	ay				

So it passed in the negative the question was lost.

After debate,

*Resolved*, That the court appointed to hear and determine the matter in question between the States of South Carolina and Georgia, be summoned to meet at the city of New York, on the third Monday in June next.

The committee, consisting of Mr. [John] Kean, Mr. [Arthur] St. Clair, and Mr. [Charles] Pinckney, to whom was referred the draught of a deed offered by the delegates of Connecticut, grounded on an Act of the legislature of the said state, having reported, "That the deed offered, is in conformity with the Act of Congress of the 26th day of May last," and the Delegates for Connecticut having thereupon proceeded and executed a deed of cession, agreeable to the resolution of the 26 May last, in the words following:

To all who shall see these presents, We, William Samuel Johnson and Jonathan Sturges, the underwritten delegates for the State of Connecticut, in the Congress of the United States, send Greeting. Whereas the general Assembly of the State of Connecticut, on the second thursday of May, in the year of our Lord one thousand seven hundred and eighty six, passed an Act in the words following, viz.

"Be it enacted by the governor, council and representatives in general court assembled, and by the authority of the same, that the Delegates of this State, or any two of them who shall be attending the Congress of the United States, be, and they are hereby directed, authorized and fully empowered in the name and behalf of this State, to make, execute and deliver, under their hands and seals, an ample deed of release and cession of all the right, title, interest, jurisdiction and claim of the state of Connecticut to certain Western Lands, beginning at the completion of the forty-first degree of North latitude, one hundred and twenty miles west of the western boundary line of the commonwealth of Pennsylvania, as now claimed by said Commonwealth, and from thence by a line to be drawn north, parrallel to, and one hundred and twenty miles west of the said west line of Pennsylvania, and to continue North until it comes to forty-two degrees and two minutes North latitude Whereby all the right, title, interest, jurisdiction and claim of the state of Connecticut, to the lands lying west of said line to be drawn as afore-mentioned, one hundred and twenty miles west of the western boundary line of the Commonwealth of Pennsylvania, as now claimed by said Common-

wealth, shall be included, released and ceded to the United States in Congress assembled, for the common use and benefit of the said states, Connecticut inclusive.

“And whereas the said William Samuel Johnson and Jonathan Sturges, were, on the second thursday of May, A. D. one thousand seven hundred and eighty-five, elected delegates to represent the state of Connecticut, according to the law of said state, in the Congress of the United States, for the term of one year from the first Monday of November, in the said year one thousand seven hundred and eighty-five, which election remains in force, and the said William Samuel Johnson and Jonathan Sturges, are the lawful delegates of said State in the Congress of the United States. Now therefore Know ye, that we the said William Samuel Johnson and Jonathan Sturges, by virtue of the power and authority to us committed by the said Act of the general assembly of Connecticut, before recited, in the name, and for and on behalf of the said State of Connecticut, do by these presents assign, transfer, quit-claim, cede and convey to the United States of America, for their benefit, Connecticut inclusive, all the right, title, interest, jurisdiction and claim which the said State of Connecticut hath in and to the before-mentioned and described territory or tract of Country, as the same is bounded and described in the said act of assembly, for the uses in the said recited act of Assembly declared. In witness whereof, we have hereunto set our hands and seals, this thirteenth day of September, in the year of our Lord one thousand seven hundred and eighty-six, and of the Sovereignty and Independence of the United States of America, the eleventh. Wm. Sam<sup>l</sup> Johnson, (L. S.) Jona<sup>th</sup> Sturges, (L. S.) Signed, sealed and delivered in presence of Cha<sup>s</sup> Thomson, Roger Alden, James Mathers.”<sup>1</sup>

On motion,

*Resolved*, That Congress accept the said deed of Cession, and that the same be recorded and enrolled among the acts of the United States in Congress assembled.

<sup>1</sup> The original of this deed, in the writing of Benjamin Bankson, is in the *Papers of the Continental Congress, Cessions of Western Territory, Connecticut*. A copy is in No. 30, folio 507. On folio 513 is a motion headed: “A Motion was made by Mr. Kean seconded by Mr. Johnson,” incorporating the committee report and the resolve which follows it. The committee report, in the writing of John Kean, is on folio 511.



On a report of the Commissioner of Army Accounts, to whom was referred a memorial of James Grigg, late a captain in the service of the United States,

*Resolved*, That invalid officers be permitted to return the amount of their commutation in other securities of the United States, where they have parted with their own, provided the same shall be of equal amount, and bearing the same interest.

[Motion of M<sup>r</sup> St Clair]

Whereas the united States have given Peace to the several Tribes or Nations of Indians following viz. (insert the Nations) and have since received Assurances of their friendly Disposition, and their Resolution to adhere inviolably to the Treaties entered into by them with the said united States, And where as the united States in Congress assembled have received no authentic Account of the Infraction of the Treaties of Peace entered into by the said Indian Tribes or nations by all or any of the said Nations and it is inconsistent with the Safety, honor, and Dignity of the united States as well as contrary to the Articles of Confederation and perpetual Union entered into between the said united States, and subversive of every Idea of national Justice that, upon any accidental Rencontre between Individuals of the said Indian Tribes or Nations and Individuals of any of the united States, or in consequence of any Injury offered to the Persons or Property of the Citizens of any of the united States, all or any of the united States, in their separate and individual Capacity, should be at liberty to levy War against or make Reprisals upon the Tribes or Nations of Indians to which the Individuals having had accidental Rencontres or having committed Injury as aforesaid respectively belong but complaint of the Injury ought to be made to the united States in Congress assembled, to the End that the same be enquired into and Redress obtained, if due, conformably to the practice of civilized Nations, and to the true intent and meaning of the Treaties entered into with and subsisting between the united States and the said Indian Nations.

And whereas by Accounts transmitted by Col<sup>o</sup> Harmar commanding the Forces of the united States in the Country bordering upon the Ohio River, it appears that a considerable Force has been raised within the State of Virginia with intent to levy War and commit

Hostilities upon some of the Nations of Indians bordering upon the united States with which Nations the united States are in peace or have formally entered into Treaties with the same, which if permitted by the united States in Congress assembled would not only infer a want of due regard in them to preserve inviolate the Articles of Confederation and perpetual union between the united States, and prevent every infraction and contravention of all and every of the Articles, but would be countenancing a violation of the national Faith, solemnly plighted to the said Indians which would probably involve the united States in a general and unjust War to the great Dishonor as well as Detriment of the said united States, therefore:

*Resolved*, That the State of Virginia do abstain from committing Hostilities against, making Reprisals upon, or entering into War with all or any of the Tribes or Nations of Indians with which the united States are in Peace or any other; and that if any Troops have been levied or Men embodied for the purpose of committing Hostilities against, making reprisals upon or entering into War with the said Indian Nations or any other the Executive of the said State of Virginia do cause the same forthwith to be disbanded.

*Resolved*, That the Secretary of Congress take order for preparing a Proclamation, to be issued as soon as may be and transmitted to the Executive Powers of the different States enumerating the several Tribes or Nations of Indians with which the united States have entered into Treaties prohibiting every State and all and every Citizen or Citizens of all and any of the united States respectively, to levy War or commit Hostilities against all and every of the said Nations of Indians or any other, and all or any Individuals of the said Nations respectively, and strictly charging and commanding all and every of the said States and all and every of their Citizens to behave towards the said Indian Nations and every individual of them in such manner as civilized Nations do, and of right ought to do, towards Nations and individuals of Nations with which they are at Peace, that the national Character may not be injured and the good of the Union maintained.

*Resolved*, That it be recommended to the State of Virginia, and every other State respectively which may be in like Circumstances, to lay before the united States in Congress assembled, any Cause of Complaint there may subsist against all or any of their neighbouring Indian Nations, together with the Evidence to support such Com-

plaint to the end the same may be enquired into, and redress obtained conformably to good Faith and the Treaties entered into with the said Nations.<sup>1</sup>

BOARD OF TREASURY,

*Sep<sup>r</sup> 12<sup>th</sup>, 1786.*

Sir: We do ourselves the Honor of laying before Congress a Copy of a Letter received by this Board from the Commissioner of the Loan Office of the State of Rhode Island, together with the Copy of an Act of the Legislature of that State, directing the Payment of the Paper Currency of that State in all Arrears of Taxes due to the United States. As this Explanation of the Law of the State relative to the late Requisitions of Congress entirely defeats the Intention of those Acts, the Commissioner of the Loan Office has suspended the Issue of Indents in that State on the Requisition of the 27<sup>th</sup> Sept., 1785, till he receives our Orders on this Subject. The conduct of Mr. Ellery in this Respect appears to us extremely proper; and we shall therefore Confirm this Suspension, unless Congress should otherwise direct; on the Principle of a Non-Compliance on the Part of the State with the Requisition of Congress of the 27<sup>th</sup> Sep<sup>r</sup> last. The State of Rhode Island (we are sorry to observe) is not ye only State in the Union, which has defeated the Object of the Requisition of Congress by making their Paper Currency receivable on the Specie Proportion of the Continental Taxes. The State of New Jersey has made their Paper receivable on the Arrears of Taxes due on the Requisition of the 27<sup>th</sup> and 28<sup>th</sup> April, 1784. The Consequences of these Unjustifiable Precedents, which have been set by the States above mentioned are so dangerous to the Union, that we Submit it to the Judgment of Congress, whether it is not proper to take Immediate measures for Expressing the Sense of the United States in Congress on the Conduct of these States in this Respect, and for preventing in Season the Extent of this alarming Evil.

We have the Honor etc.<sup>2</sup>

<sup>1</sup> This motion, in the writing of Arthur St Clair, is in the *Papers of the Continental Congress*, No. 36, III, folio 299. According to indorsement, it was offered September 14. See *post*, September 15.

<sup>2</sup> This report, signed by Samuel Osgood and Arthur Lee, is in the *Papers of the Continental Congress*, No. 140, II, folio 307. According to indorsement it was read September 14. The inclosures are on folios 311-321. See *post*, September 15.

To His Excellency,  
The President of Congress.

The Committee consisting of M<sup>r</sup> [John Bubenheim] Bayard, M<sup>r</sup> [William] Hindman, and M<sup>r</sup> [Arthur St Clair, to whom was referred the report of the Board of Treasury, on the memorial of M<sup>r</sup> Andrew Caldwell, Report:

That they have read and considered the memorial of And<sup>y</sup> Caldwell together with the Certificate from M<sup>r</sup> Sam<sup>l</sup> Caldwell and one from the late Commissioners of the Board of War, from all which it appears—

That M<sup>r</sup> Sam<sup>l</sup> Caldwell was specially appointed by said Commissioners to purchase a quantity of Clothing for the Army in the latter end of the year 1779 and beginning of the year 1780, and to contract for immediate payment, that in consequence He purchased on Dec. 20<sup>th</sup>, 1779, of And<sup>y</sup> and James Caldwell 49 p<sup>s</sup> Broad Cloth amounting to £40,500 to be paid as soon as Congress should begin to draw Bills of Exchange on France or Holland either in Cash, Bills of Exchange, or Certificates, as the Seller should make His Option.

It further Appears that on January 26<sup>th</sup>, 1780, there was a further purchase made of And<sup>y</sup> and James Caldwell by Sam<sup>l</sup> Caldwell of 25 p<sup>s</sup> of Broad Cloth and 16 p<sup>s</sup> of Coating amounting to £25,110.10 to be paid for in Cash of which sum £20,562.10 was paid in the february following which left a Balance of £4,548 of this last purchase still due them; that the Board of War were unable to pay the above sums on account of the Stoppage in drawing Bills by Order of Congress.

Your Committee upon this Statement of facts, submit the following resolution to Congress:

*Resolved*, That the Board of Treasury Liquidate and adjust the Account of And<sup>y</sup> and James Caldwell agreeable to the Scale of depreciation allowing Interest thereon and give a Warrant on the Treasury for the Ball<sup>ts</sup> due them, to be paid as soon as the situation of the Treasury will admit.

All which is submitted.<sup>1</sup>

The Committee consisting of M<sup>r</sup> [Nathaniel] Ramsay, M<sup>r</sup> [Edward] Carrington, and M<sup>r</sup> [Arthur] St Clair to whom was referred the

<sup>1</sup> This report, in the writing of John Bubenheim Bayard, is in the *Papers of the Continental Congress*, No. 19, I, folio 493. According to indorsement it was read September 14 and passed September 15.



Memorial of Duncan Campbell together with the report of the Commissioner of Army Accounts thereupon report as follows:

It appears to your Committee, upon investigating the account exhibited by the said Duncan Campbell amounting to one hundred and ten pounds, sixteen shillings New York Currency for bounty money advanced to fifty-four recruits, and for Arms, blankets, provisions and other Articles furnished the said recruits; that the said Duncan Campbell did actually enlist fifty-four men, and was authorised by General Arnold to pay them the Bounty charged in his account; that the supplies charged to have been furnished the recruits were Necessary, and the said Campbell's oath to their being made by him is a sufficient evidence of the fact, as he alledges that the loss of papers occasions the defect of other Vouchers; that it does not appear any settlement or allowance has hitherto been made to the said Campbell, therefore, Whereupon your Committee submit the following Resolution.<sup>1</sup>

The Committee consisting of [Mr. Pierse Long, Mr. Rufus King, and Mr. James Monroe] to whom was refer'd the Memorial of Cap<sup>t</sup> Thomas Hutchings In behalf of the surveyors of Land who accompanied him to the Western Country, praying for a reimbursment of the money, they severally expended while attending on said business and that some compensation may be made for the time, they were absent—submit the following Resolve: ~~in part~~

That Benjamin Tupper, William W. Morris, Alexander Parker, James Simpson, Robert Johnston, Isaac Sherman, Absolam Martin, and Edw<sup>d</sup> Dowse be reimbursed Sixteen hundred and Seventy-three doll<sup>r</sup>s and  $\frac{6}{10}$  of a dollar, being the amount of their expenditures, as appears by their Accounts accompanying said memorial—and that take order for the payment thereof.<sup>2</sup>

The Committee, consisting of Mr. [William] Harrison, Mr. [Edward] Carrington and Mr. [Henry] Lee to whom was referred a report

<sup>1</sup> This report, in the writing of Henry Remsen, jr., is in the *Papers of the Continental Congress*, No. 19, I, folio 517. According to indorsement it was read September 14 and passed September 19, where the resolution submitted is spread *verbatim* on the Journal, but with the amount translated into dollars. A further indorsement by Roger Alden reads: "N. B. a Petition was read Sept. 9<sup>th</sup>, 1788, referred to board of treasury—reported Sept. 16<sup>th</sup> do. See report and report Comm<sup>r</sup> Army Acco<sup>ts</sup> filed and Petition."

<sup>2</sup> This report, in the writing of Pierse Long, is in the *Papers of the Continental Congress*, No. 19, III, folio 239. According to indorsement it was read September 14 and "Acted on in report of 25 Sept., 1786."



of the Commissioner of Army Acco<sup>ts</sup>, on the petition of John Lesure, late an Ensign in the Army of the U. S., in behalf of himself and of Nathan Watkins, late a Captain in the said Army, having examined the said report, and the papers accompanying the same, beg leave to submit to Congress the follow<sup>g</sup> Resolution—

That the Commissioner of Army Acco<sup>ts</sup> be directed to settle with the said Ensign Lesure and the said Captain Watkins, agreeably to his report.<sup>1</sup>

FRIDAY, SEPTEMBER 15, 1786.

Congress assembled. Present as before.

On the report of a committee, consisting of Mr. [John Bubenheim] Bayard, Mr. [William] Hindman, and Mr. [Arthur] St. Clair, to whom was referred a report of the board of treasury, on a memorial of Mr. Andrew Caldwell,

*Ordered*, That the board of treasury liquidate and adjust the account of Andrew and James Caldwell, and report the same to Congress.

On the report of a committee, consisting of Mr. [William] Harrison, Mr. [Edward] Carrington and Mr. [Henry] Lee, to whom was referred a report of the Commissioner of Army Accounts, on a petition of John Lesuer, in behalf of himself and Nathan Watkins,

*Resolved*, That the commissioner of Army Accounts issue to the said John Lesuer, a certificate for the sum of one hundred and twenty-eight and  $\frac{83}{90}$  of a dollar; and to the said Nathan Watkins, a certificate for the sum of two hundred and twenty-eight and  $\frac{83}{90}$  of a dollar, in the usual manner.

<sup>1</sup> This report, in the writing of William Harrison, is in the *Papers of the Continental Congress*, No. 19, III, folio 543. According to indorsement it was read September 14 and passed September 15.

SEPTEMBER 14: The following committees were appointed: Mr. [John Cleves] Symmes, Mr. [Edward] Carrington and Mr. [William] Hindman, on "Petition of Joseph Cone respect<sup>g</sup> certificates issued to him." Report was rendered September 15.

Mr. [Jonathan] Sturges, Mr. [Edward] Carrington, and Mr. [Melancton] Smith, on "Report of Com<sup>r</sup> of Army Acco<sup>ts</sup> on pet: D. Pendleton." This committee was renewed February 12, 1787.

[Motion Mr. Lee]

Whereas the Delegates of New York, North Carolina, and Georgia have represented to Congress that the late Treaty entered into with the Indians living within the Limits of said States has given Disquiet to the inhabitants thereof,

*Resolved*, That a Committee of ~~three~~ be appointed to examine into the said Treaty and report what is proper to be done relative thereto.<sup>1</sup>

MONDAY, SEPTEMBER 18, 1786.

Congress assembled. Present, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, North Carolina, South Carolina and Georgia; and from New Hampshire, Mr. [Pierse] Long, and from Virginia, Mr. [Henry] Lee.

The committee, consisting of Mr. [Charles] Pinckney, Mr. [Arthur] St. Clair, and Mr. [William] Harrison, to whom was referred a letter of the 12 from the board of treasury, together with a letter from the commissioner of the loan

<sup>1</sup> This motion, in the writing of Timothy Bloodworth, is in the *Papers of the Continental Congress*, No. 36, IV, folio 47<sup>1</sup>. According to Thomson's indorsement, it was offered by Lee and referred September 15, to Mr. [Arthur] St. Clair, Mr. [William Samuel] Johnson, Mr. [Henry] Lee, Mr. [Charles] Pinckney, and Mr. [Nathan] Dane. According to *Committee Book No. 190* St. Clair's motion, of September 14, was also referred this day to the same committee and a report rendered October 17.

SEPTEMBER 15: The following committee was appointed: Mr. [Charles] Pinckney, Mr. [Arthur] St. Clair and Mr. [William] Harrison, on "Letter 12 September, 1786, from the Board of treasury with papers enclosed relative to State of R. I." A report was rendered September 18.

Also the letter from the Secretary for Foreign Affairs dated September 15 "with letter of 16 June from Mr. Adams" was referred back to the Secretary for Foreign Affairs to report. John Adams' letter is in No. 84, VI, folio 299 and relates to the debtor-creditor situation between Americans and British subjects under the terms of the treaty of peace.

*Committee Book No. 190.*

Also, according to indorsement, was read a petition from Barent Martlings praying to be admitted to the privileges of an Invalid. It is in No. 42, V, folio 387.

Also, according to *Committee Book, No. 189*, Joseph Couc's memorial was "referred to board of treas<sup>r</sup> to take order."

Office in the state of Rhode Island, and an Act of the legislature of that State; having reported,

That it appears from these communications the legislature of the state of Rhode Island, by an Act passed at their last Session, have made the paper currency of that state receivable on all arrears of taxes due to the United States; that as this explanation of the law of the State relative to the late requisition of Congress, entirely defeats the intentions of those acts, the commissioner of the loan-office has suspended the issue of indents in that state on the requisition of the 27 September, 1785, until he should receive the directions of the board of treasury on that subject. The Board farther remarks, that the legislature of the state of New Jersey have also made their paper currency receivable on the arrears of taxes due on the requisition of the 27 and 28 April, 1784. On this statement the committee observe, that as the requisitions of Congress are calculated for the purpose of requiring from the States, a sufficient sum for the payment of the interest due on the foreign and domestic debt, and the maintenance of the civil department, no deviation can be admitted from the mode of payment therein established, without exposing the funds of the United States to great loss and inconvenience, particularly as the discharge of the interest due on the foreign debt and the maintenance of the civil government, must altogether depend upon the payments that are made into the federal treasury in Specie. That to admit the receipt of bills of credit issued under the Authority of an individual state, in discharge of their specie proportion of a requisition, would defeat its object, as the said bills do not circulate out of the limits of the state in which they are emitted, and because a paper medium of any state, however well funded, cannot, either in the extensiveness of its circulation, or in the course of its exchange, be equally valuable with gold or silver. That if the bills of credit of the States of Rhode Island and New Jersey were to be received from those States in discharge of federal taxes, upon the principles of equal Justice, bills emitted by any other states must be received from them also in payment of their proportions, and thereby, instead of the requisitions yielding a sum in actual Money, nothing but paper would be brought into the federal treasury, which would be wholly inapplicable to the payment of any part of the interest or principal of the foreign debt, or the maintenance of the government of the United States. That as the consequences of the precedents which have been established

by the States above mentioned, are dangerous to the interests of the Union,<sup>1</sup> the committee conceive it necessary for Congress to express their sense upon the subject: Whereupon,

*Resolved*, That as the annual requisitions of the United States in Congress assembled, are made by them in virtue of the powers of the Confederation, and for the necessary purposes of government, the same be obligatory on the States as such, and ought to be discharged by them in the manner by the said requisitions directed, and in no other.

*Resolved*, That as the payment of the interest and such parts of the principal of the foreign debt of the United States as are included in any of the requisitions of Congress, and the maintenance of the federal government, cannot be provided for, but by payments in specie into the federal treasury of the sums respectively required of the states therein, no payments, either in bills of credit or in any other mode than those pointed out by the said requisitions, can or ought to be admitted in discharge of the same.

*Ordered*, That the board of treasury transmit a copy of the above resolutions to each state, and issue instructions to the respective loan Officers conformable thereto.<sup>2</sup>

The Commissioner of Accounts for the Hospital, Cloathing and Marine Department to whom was referred the Petition of Leake Hunt and others, Exors. of John Berrian, deced., begs leave to Report:

That in the establishment of the Hospital Department made by Congress on the 8 day of April, 1777, the pay of Assistant Deputy Director was fixed at 3 Dollars and that of Commissary at 2 Dollars p. day and by a Resolution of Congress of 6<sup>th</sup> of February, 1778, the Pay of those two Officers was raised to 4 Dollars p. day each.

That on the 16<sup>th</sup> Jan<sup>y</sup>, 1782, Congress were pleased to Resolve—

<sup>1</sup> At this point the report reads "and may be the means of inducing other States to pursue a similar conduct," but these words are marked for excision.

<sup>2</sup> This report, in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 29, folio 223.



“That in the settlement of the accounts of such Officers of the Hospital Department as are entitled to an allowance for depreciation the establishment of pay made upon the 8<sup>th</sup> April, 1777, be considered as Specie.”

That on viewing this Resolution your Commissioner conceived himself precluded from considering any establishment of Pay antecedent thereto as Specie and adjusted the accounts of the Assistant Dep<sup>y</sup> Directors and Commissaries accordingly.

Having however since, more minutely investigated the several establishments of Pay made to the Hospital and finding that the establishment of April 8<sup>th</sup>, 1777, was excepted in the case of the two Officers above mentioned, the highest Pay at any time granted your Commissioner is induced, to differ from his first construction of the Resolve, and is therefore of Opinion—

That it was not the intention of Congress, in their Resolution of the 16<sup>th</sup> Jan<sup>y</sup>, 1782, to declare that the increased pay granted by the Resolution of the 6 february, 1778, to the Assistant Dep<sup>y</sup> Director and to the Commissaries of the Hospitals should not be considered as Specie.

BEN WALKER,<sup>1</sup>  
Commiss<sup>ry</sup>

Office of Accounts,  
Hospital Departm<sup>t</sup>,  
Sept<sup>r</sup> 15, 1786.

His Excell<sup>y</sup>,  
the Presid<sup>t</sup> of Congress.

*Resolved*, That the following precedence be established at the Court of the United States:

- His Excellency the President of Congress.
- The Honorable the Delegates in Congress.
- The Honorable the Secretary of Congress.
- The Honorable the Secretary for foreign Affairs.
- The Honorable the Secretary at War.
- The Honorable the Commissioners of the Treasury.

*Resolved*, That all foreign Ministers be received at the Court of the United States in conformity to their rank and that *Ceteris paribus* a

<sup>1</sup> This report is in the *Papers of the Continental Congress*, No. 31, folio 149. According to indorsement it was read September 18. See *post*, September 25.



Minister from a Republic take the precedence of all others. to the usage of Europe.

That it be the duty of \_\_\_\_\_ to communicate to the United States printer for publication the arrival and departure of his Excellency the President of Congress, the Honorable a Delegate in Congress and the ~~other~~ first Officers of State.

That it be the duty of \_\_\_\_\_ to communicate to the ~~first~~ high Officers of the federal government, and the Ministers resident at this Court from foreign Nations the arrival of his Excellency the President, and the honorable the delegate in Congress, together with the N<sup>o</sup> of the Hotel in which he or they may fix his or their residence.

*Resolved*, That a master of Ceremonies be appointed, and that the Office of private Secretary and Steward to the household of the President be abolished.

*Resolved*, That robes of State be prepared, and that the president when in the Chair of Congress set robed.<sup>1</sup>

The Committee, consisting of Mr. [Melancton] Smith, Mr. [Pierse] Long, Mr. [William Samuel] Johnson, Mr. [John] Bull, Mr. [Edward] Carrington, Mr. [William] Henry, and Mr. [John] Kean, to whom was committed a motion of Mr. [Rufus] King, together with a motion of the Delegates of Virginia, on the subject of settlement of the Acco<sup>ts</sup> of the individual States, with the United States Submit the following Resolves:

*Resolved*, That the authority of the Commissioners appointed to settle the accounts between the United States and individual States shall from and after the \_\_\_\_\_ Day of \_\_\_\_\_ terminate and cease.

*Resolved*, That a Board, to consist of \_\_\_\_\_ members, be appointed, who shall and hereby are invested with all the powers and authorities of the aforesaid Commissioners, and shall sit where Congress may direct.

*Resolved*, That in cases where no written Vouchers are or can be produced, and the said Board shall receive satisfactory evidence that such Vouchers have been destroyed or unavoidably lost, or that from the Circumstances of the case, they have never been obtained, they may receive such other evidence as shall be satisfactory to them, but the best that the nature and circumstances of the case will admit of; and at their discretion, may examine on Oath, any person or persons

<sup>1</sup> This report, in the writing of Henry Remsen, jr., is in the *Papers of the Continental Congress*, No. 23, folio 307. According to indorsement it was read September 18. *Committee Book No. 189* states that it was transferred.

they may think fit, respecting the claims which shall be exhibited for settlement, whether accompanied with written Vouchers or not, when the other evidence is not sufficient to satisfy them of the truth or justice thereof.

*Resolved*, That where supplies have been furnished by individuals for the use of the Army, and have been assumed by any State, the said Board are hereby authorized and instructed to liquidate and settle such claims and admit them as a charge against the United States.

*Resolved*, That where any State has claims against the United States not authorized or sanctioned by existing Resolutions of Congress, the same shall be laid before the aforesaid Board within years, who shall examine the same and report such decision thereon to Congress as shall accord with Justice and equity.

*Resolved*, That the said Commissioners be allowed.

*Resolved*, That the Commission of the said Board shall continue in force for years and no longer.<sup>1</sup>

<sup>1</sup> This report, in the writing of Melancton Smith, is in the *Papers of the Continental Congress*, No. 26, folio 619. According to indorsement, it was read September 18 and made the "Order of the day for Wednesday 27 Sept., 1786. \* \* \* A Ordinance passed on this subject 13 Oct. 1786."

SEPTEMBER 18: The following committees were appointed: Mr. [William Samuel] Johnson, Mr. [Charles] Pinckney, Mr. [Melancton] Smith, Mr. [Nathan] Dane, and Mr. [William] Henry, on "temporary govern<sup>mt</sup> of Western territory." and the "Pet: Inhabitants of Kaskaskies." Report was rendered September 19. This was a renewal of the committee of August 23.

Mr. [Rufus] King, Mr. [Charles] Pinckney, Mr. [William Samuel] Johnson, Mr. [Jonathan Sturges], and Mr. [Nathan] Dane, on "Motion for reduction of civil list." This was a renewal of the committee of July 19 and this new committee was again renewed February 12, 1787.

Also the "Mem<sup>l</sup> of G. Bailor's ex<sup>ts</sup> for settle<sup>mt</sup> of his Acco<sup>ts</sup>" was referred to the Commissioner of Army Accounts to report.

*Committee Book No. 190.*

Also, according to indorsement, was read a letter of September 18 from the Secretary for Foreign Affairs, forwarding a letter from John Adams of July 31. It is in No. 80, III, folio 73. Adams' letter, which deals with American prisoners in Algiers and is in No. 84, VI, folio 347, was also read.

Also was read a report of the Board of Treasury, dated September 15, stating that satisfactory reasons have been given for Job Sumner's absenting himself and recommending that he be granted a two months leave of absence. It is in No. 138, II, folio 425. *Committee Book No. 189* states that it was transferred.

TUESDAY, SEPTEMBER 19, 1786.

Congress assembled. Present, Massachusetts, Connecticut, New York, New Jersey, Maryland, Virginia, North Carolina, South Carolina and Georgia; and from New Hampshire, Mr. [Pierse] Long, and from Pennsylvania, Mr. [John Bubenheim] Bayard.

On motion of Mr. [Charles] Pinckney, seconded by Mr. [Josiah] Hornblower,

*Ordered*, That the board of treasury report the sums in specie value, which have been respectively advanced to the delegates of the several States, with the names of the delegates to whom the said Sums were paid, and the times and purposes expressed in the resolutions on which they were advanced.<sup>1</sup>

On the report of a committee, consisting of Mr. [Nathaniel] Ramsay, Mr. [Edward] Carrington and Mr. [Arthur] St. Clair, to whom was referred a Memorial of Duncan Campbell, together with a report of the commissioner of Army Accounts thereon,

*Resolved*, That the commissioner of Army accounts settle with and allow Duncan Campbell two hundred and seventy-seven dollars for bounty money advanced to fifty four recruits, by order of general Arnold, and for Arms, blankets, and other things, furnished the said recruits.

[Motion Mr. Pinckney]

~~Ordered~~ *Resolved*, That the board of Treasury report the sums in specie value which have been respectively advanced to the delegates of the several states, with the names of the delegates to whom the said sums were paid and the times and purposes expressed in the resolutions on which they were advanced.<sup>2</sup>

<sup>1</sup> See *post*, September 26.

<sup>2</sup> This motion, in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 26, folio 617. According to indorsement it was passed September 19.

The Com. consisting of [Mr. Edward Carrington, Mr. John Bubenheim Bayard and Mr. William Samuel Johnson] to whom was referred the memorial of David Henley report as follows:

It appears to your Com. from the information of the said David Henley that he was charged with the immediate command of the Guard of Militia amounting to near 3,000 Men over the convention Troops at Cambridge for about six months in the years 1777 and 1778. That the residence of Gen<sup>l</sup> Heath who had the Chief Command being in Boston, which was distant and unconnected with the Troops, a very great proportion of the expences as well as business incidental to such a command, fell upon the memorialist, and that these expences must have been much augmented by communications with the British Officers which, for preserving the ~~respect necessary~~ dignity of his public Character were necessary and unavoidable. Your Com. are of Opinion upon considering the foregoing facts, that, had Gen<sup>l</sup> Heath actually resided with the Troops at Cambridge, Col<sup>o</sup> Henley's command under him would still have been equal to a Brigadier, and must have exposed him to more expence than would regularly have attended the Rank of Colonel and his claim for some indemnification would be reasonable, but as Gen<sup>l</sup> Heath did not reside there it becomes the more incumbent on the justice of Congress to make him an allowance which may comprehend all the aforesaid considerations whereupon the following resolution is submitted:

*R.*, That David Henley be allowed \_\_\_\_\_ dollars as an indemnification for his extraordinary expenses while in Command with the Militia employed as a Guard over the convention Troops at Cambridge in the State of Massachusetts in the years 1777 and 1778.<sup>1</sup>

The Committee consisting of M<sup>r</sup> [William Samuel] Johnson, M<sup>r</sup> [Charles] Pinckney, M<sup>r</sup> [Melancton] Smith, M<sup>r</sup> [Nathan] Dane and M<sup>r</sup> [William] Henry appointed to prepare a plan of a temporary government for such districts or new States as shall be laid out by the United States upon the principles of the acts of cession from individual States and admitted into the confederacy, submit the following report to the consideration of Congress:

<sup>1</sup> This report, in the writing of Edward Carrington, is in the *Papers of the Continental Congress*, No. 19, III, folio 125. According to indorsement it was read September 19 and passed September 21. The changes then made in the resolve are entered upon this report.



The United States in Congress assembled will appoint a governor, whose Commission shall continue in force for the term of three years unless sooner revoked by Congress.

There shall be appointed by Congress from time to time a Secretary whose Commission shall continue in force for two years unless sooner revoked by Congress. It shall be his duty to keep and preserve the Acts and laws passed by the general Assembly and public records of the district, and of the proceedings of the governor in his executive department and transmit an Authentic copy thereof every three months to the Secretary of Congress.

There shall also be appointed a Court to consist of five Judges who shall have a common law and Chancery Jurisdiction and whose Commissions shall continue in force during good behaviour.

And to secure the rights of personal liberty and property to the inhabitants and other purchasers in the said districts it is hereby

*Resolved*, That the inhabitants of such districts shall always be entitled to the benefits of the Act of habeas Corpus and of the trial by Jury.

That the Judges shall agree on the Criminal Laws of some one State, in their Opinion the most perfect, which shall prevail in said district, until the Organization of the general Assembly, but afterwards the general Assembly shall have authority to alter them as they shall think fit.

That the real estates of resident proprietors dying intestate previous to the Organization of the general Assembly shall descend to the heirs of such proprietors Male and female in equal parts, that is to say, if a father dies intestate leaving a Son and two daughters the real estate shall be divided into three equal parts, and descend to each in such equal proportions; provided however, that such proprietors shall be at liberty to dispose of such lands by alienation by bargain and sale testamentary devise or otherwise as he shall think proper; but after the Organization of the general Assembly the estates of resident proprietors shall be subject to such disposition by alienation bargain and sale descent or otherwise as the said assembly shall direct.

The real estate of non resident proprietors shall be subject to such alienation while living and disposal by testamentary devise as they shall think fit; but the real estates of non resident proprietors dying intestate shall descend in the same manner as those of resident proprietors, previous to the organization of the general assembly until such district shall be admitted into the Confederacy.



The Governor for the time being shall be commander in chief of the Militia; and appoint and Commission all officers in the same below the rank of General Officers; all officers of that rank shall be appointed and Commissioned by Congress.

Previous to the Organization of the general Assembly the governor shall appoint such Magistrates and other Civil Officers in each County or township, as he shall find Necessary for the preservation of peace and good order in the same.

After the general Assembly shall be Organized, the number of Magistrates and other Civil Officers with their powers and duties and term of services shall be regulated and defined by the said Assembly. But all Magistrates and other Civil Officers not herein otherwise directed shall during the continuance of this temporary Government, be appointed by the Governor.

The Governor shall as soon as may be, proceed to lay out the land into Counties and Townships, subject however to such Alterations as may thereafter be made by the Legislature.

So soon as there shall be free male Inhabitants of full age within the said district, upon giving due proof thereof to the Governor they shall receive authority, with time and place to elect representatives from their Counties or Townships as aforesaid to represent them in general assembly; provided that for every free male Inhabitants there shall be one representative, and so on progressively with the number of free male Inhabitants shall the right of representation increase until the number of representatives amount to after which the number and proportion of representatives shall be regulated by the Legislature; Provided that no person shall be eligible or qualified to act as a representative unless he shall be a Citizen of one of the United States, or have resided within such district three years and shall likewise hold in his own right in fee simple 200 acres of land within the same; provided also that a freehold or life estate in fifty acres of land if a Citizen of any of the United States and one years residence if a foreigner in addition shall be necessary to qualify a man as elector for the said representative.

The representatives thus elected shall serve for the term of one year; and in case of the death of a representative or his resignation or renunciation of Office the governor shall issue a writ to the County or Township for which he was a member to elect another in his stead to serve for the residue of the time.

The General Assembly shall consist of the Governor, a Legislative Council to consist of five members, any three of whom to be a quorum, to be appointed by the United States in Congress Assembled and to continue in Office during pleasure; and a house of representatives who shall have a Legislative authority complete in all cases for the good government of the district; provided that no act of the said general Assembly shall be construed to affect any lands the property of the United States; and provided further that the lands of the non-resident proprietors shall in no instance be taxed higher than the lands of residents.

All money bills shall Originate in the house of representatives, and all other bills indifferently either in the Council or house of representatives, and having been passed by a Majority in both houses shall be referred to the governor for his assent, after obtaining which they shall be complete and valid; but no bill, resolution, Ordinance or Legislative Act whatever shall be valid or of any force without his assent.

The Governor shall have power to convene or prorogue the general Assembly at their request, or when in his Opinion it shall be expedient.

The said Inhabitants or settlers shall be subject to pay a part of the federal debts contracted or to be contracted, and to bear a proportional part of the burthens of the Government to be apportioned on them by Congress according to the same common rule and measure by which apportionments thereof shall be made on the other States.

The annual salary of the Governor shall be \_\_\_\_\_, of the Legislative Council \_\_\_\_\_, of the Judges \_\_\_\_\_, and of the Secretary \_\_\_\_\_ per annum.

The Governor, Judges, Legislative Council, Secretary and such other Officers as Congress shall at any time think proper to appoint in such district shall take an Oath of Office before \_\_\_\_\_ presented on the \_\_\_\_\_ day of \_\_\_\_\_ to the Secretary at War *Mutatis Mutandis*.

Whensoever any of the said States shall have of free inhabitants as many as are equal in number to the one thirteenth part of the Citizens of the Original States, to be computed from the last enumeration, such State shall be admitted by its delegates into the Congress of the United States on an equal footing with the said original States; provided the consent of so many States in Congress is first obtained as may at that time be competent to such admission.

*Resolved*, That the resolutions of the 23<sup>d</sup> of April, 1784, be, and the same are hereby annulled and repealed.<sup>1</sup>

<sup>1</sup> This report, in the writing of Henry Remsen, jr., except the preamble, which is in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 30, folio 101. According to indorsement it was read September 19 and made the "Order of Day for thursday 21 Sept."

SEPTEMBER 19: The following committees were appointed:

Mr. [Charles] Pinckney, Mr. [Nathan] Dane, and Mr. [Edward] Carrington, on "Letter 19 Sept. 1786 Postmaster gen<sup>l</sup>" on acceptance of specie only for postage. A report was rendered September 20, which was adopted with only minor changes and is there spread on the Journal. Ebenezer Hazard's letter is in No. 61, folio 379; the committee report is on folio 539.

Mr. [Nathan] Dane, Mr. [Edward] Carrington, and Mr. [Melancton] Smith, on a committee report for devising ways and means to discharge that part of the public debt consisting of Continental Loan Office certificates issued between September 1, 1777, and March 1, 1778. This committee was again renewed February 12, 1787. See *ante*, March 5, 1784.

Also the "Mem<sup>l</sup> Cha. Scott late brig. gen<sup>l</sup>," was referred to the Board of Treasury to report and a report rendered September 25. It was acted on October 3. Scott's memorial, praying for payment of money advanced to American prisoners in 1781, is in No. 41, IX, folio 419.

Also the "Mem<sup>l</sup> William Finnie", praying for settlement of his accounts as deputy quartermaster general in the Southern Department and payment of balance due, was referred to the Board of Treasury to report. Report was rendered September 25 and acted on October 5. Finnie's memorial is in No. 41, III, folio 350.

Also was referred to the Board of Treasury to take order "a report of a Com<sup>rs</sup> on petition of Jos. Cone viz. That when application shall be made to the Compt. or register as to the Com<sup>t</sup> for settling the q<sup>r</sup> M<sup>t</sup> and commissary's acco<sup>ts</sup> or the Com<sup>t</sup> for settling the hospital marine and cloathing departm<sup>t</sup> Acco<sup>ts</sup> and doubts arise touch<sup>e</sup> the validity of the claim, the s<sup>d</sup> Officers respectively receive and file the voucher, certificate, or other evidence produced receipting therefor and proceed as soon as may be to investigate the justice of the demand either by enquiring into the authority of the person issuing, or by calling on him to make return of the checks of certificates issued by him while in office, or such other modes as they judge most proper and where their researches prove ineffectual that they make representation thereof to Congress." *Committee Book No. 190*.

Also, according to indorsement, was read a letter from the Secretary for Foreign Affairs, dated September 19, transmitting a letter from John Adams, dated July 15. Jay's letter is in No. 80, III, folio 77; Adams' is in No. 84, VI, folio 339. It recounts the action of the British Lords of the Admiralty in the case of Captain Stanhope, of H. M. S. *Mercury*, in which the captain "had received a Severe Rap over the Knuckles." Adams' letter was read in Congress and "Referred to the Secy. for foreign Affairs to Communicate to the Executive of Massachusetts so much as relates to Capt. Stanhope and the eastern boundary." *Committee Book No. 190* states that this reference of the business to the Secretary for Foreign Affairs was made on September 20.

WEDNESDAY, SEPTEMBER 20, 1786.

Congress assembled. Present as before.

On the Report of a committee, consisting of Mr. [Charles] Pinckney, Mr. [Nathan] Dane, and Mr. [Edward] Carrington, to whom was referred a letter of the 19, from the post master general:

Whereas the United States in Congress assembled, are, by the Articles of Confederation, invested with the sole and exclusive right of establishing and regulating Post Offices, from one State to another throughout the United States, and exacting such postage on the Papers passing through the same as may be requisite to defray the expences of the said offices: and whereas the present situation and demands of the post office will on no account admit the receipt of any other money than specie; the paper currencies of the several States, from their limited circulation and probable depreciation, being totally inadequate to the purpose;<sup>1</sup>

*Resolved* therefore, That the post master general be, and he is hereby directed to issue instructions to the postmasters in the several states, to receive no other money in payment for postage than specie.<sup>2</sup>

*Resolved*, That the post-master-general be, and he is hereby empowered, in all cases where he may conceive it necessary, to demand, or authorise the demanding the postage at the time the letters are put into the post Offices.<sup>3</sup>

<sup>1</sup> The committee report, see *ante*, September 19, phrases it "render a payment for postage in paper totally improper." Thomson entered the report on the Journal and afterward struck it off.

<sup>2</sup> The committee report adds, "that the United States will indemnify the civil officers in adhering to this order." It is in No. 61, folio 539.

<sup>3</sup> The committee report, see *ante*, September 19, adds: "Your Committee report that the other points of the said letter from the Postmaster General being included in the general regulations contained in the ordinance on the Post Office, it is unnecessary for them to remark thereon."



On the question to agree to the last resolution, the yeas and nays being required by Mr. [Edward] Carrington,

<i>Massachusetts,</i>			<i>Virginia,</i>		
Mr. Gorham,	ay	}ay	Mr. Carrington,	ay	}ay
Dane,	ay		Lee,	ay	
<i>Connecticut,</i>			<i>North Carolina,</i>		
Mr. Johnson,	ay	}ay	Mr. Bloodworth,	ay	}ay
Sturges,	ay		White,	ay	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Haring,	ay	}ay	Mr. Bull,	ay	}ay
Smith,	ay		Pinckney,	ay	
<i>New Jersey,</i>			Kean,	ay	
Mr. Cadwallader,	ay	}ay	Parker,	ay	
Hornblower,	ay		<i>Georgia,</i>		
<i>Maryland,</i>			Mr. Houstoun,	ay	}ay
Mr. Henry,	ay		Few,	ay	
Harrison,	ay	}ay			
Ramsay,	ay				

So it was resolved in the affirmative.

WAR OFFICE, *September 20<sup>th</sup>, 1786.*

SIR: I have the honor to inform Congress, that in obedience to the duties of my office, I have minutely inspected the ordnance and military stores of the United States deposited in Springfield within the Commonwealth of Massachusetts, and find them in exact order according as they stand stated in the returns.

During the course of the last and present year the new arms and bayonets about seven thousand in number have been taken to pieces cleaned and put in perfect condition for use. The powder amounting to upwards of thirteen hundred barrels of excellent quality has been shifted, dried, and repacked.

About two hundred tons of shot and shells have been removed from Salisbury in Connecticut to Springfield, they being exposed to loss and injury at Salisbury, where they were cast in the year 1781.

All the other stores in the arsenal at Springfield are now well deposited and with proper attention may be preserved in good order for a considerable period of time.



Learning from a variety of information that some lawless people in the counties of the Commonwealth of Massachusetts, in the neighborhood of Springfield had intimated their intention under certain circumstances, of seizing the arsenal, and converting the ordnance and stores therein to their own rebellious purposes I conceived it my duty to make a statement thereof to his Excellency Governor Bowdoin and to request that he would take such measures for the security of the stores as the state of the case might require. A copy of which I have the honor herewith to submit to Congress.

I have the honor etc.

H. KNOX.<sup>1</sup>

NEW YORK, *September 19, 1786.*

SIR: I beg leave to lay before your Excellency and Congress, a Claim exhibited for settlement by Col. Donald Campbell, whose case is of so singular a Nature, I do not conceive myself Authorised to determine on it.

He charges for his pay as Quarter Master General from the 17<sup>th</sup> of July, 1775, to the 17<sup>th</sup> of Sept. 1786, including two Months pay allowed to the officers who remain'd in Canada through the Winter of 1775, being Eleven years and four months at 80 Dollars pr Month, \$10,880; for Rations, and Forage not drawn, \$7,055.76; for Interest at 6 pr Ct. chargd every four Months, \$5,994.64; amounting in the whole to Twenty-three thousand, nine hundred and thirty Dollars and fifty-ninetieths of a Dollar. By a Resolution of Congress July 17th, 1775, He was appointed Deputy Quarter Master General for the New York Department, with the Rank of Col. in the Army. A Resolution of the 16th June preceeding fixes the pay of a Deputy Quarter Master General at Forty Dollars pr Month. He served in Canada until the beginning of July, 1776, when he was arrested and tried by a Court Martial. The sentence of the Court was trans-

<sup>1</sup> This letter is in No. 150, I, folio 555. According to indorsment it was read September 20 and referred to Mr. [William Samuel] Johnson, Mr. [Edward] Carrington, Mr. [Henry] Lee, Mr. [Nathan] Dane, and Mr. [Nathaniel] Ramsay. According to *Committee Book No. 190*, report was rendered September 21. Copies of two letters from Gov. James Bowdoin, dated September 19, are on folios 559 and 563.

SEPTEMBER 20: A "Mem<sup>l</sup> Jacob Cuyler" was referred to the Commissioner of Commissary Accounts to report; he reported October 3. Cuyler's memorial, praying relief from a suit for payment for cattle purchased for the Army in 1780, is in No. 41, II, folio 354. It is indorsed: "Acted on Sept. 15, 1788."

mitted to Congress and by them referred to General Gates, who disapproved of the proceedings of the Court as being severe, irregular, and unprecedented and reported his opinion to Congress on the 18th of January, 1777. In the meantime another Deputy Quarter Master General for the Northern Department had been appointed and on the 13th of February following Congress Resolved that Col. Campbell be continued in his former pay, and rank and directed him to repair immediately to the Commissioners of Accounts for the Northern Army and settle with them the accounts of his late Department. Under this resolution he considers Himself as still in pay and has made up his Accounts to this Date.

His Claim for pay as Quarter Master General, I believe is founded on the nature of His Business while in Canada, unconnected with and independent of the Quarter Master General; and on a Resolution of the 23rd of September, 1775, which mentions the Quarter Master General of the Continental Armies, implying that there was more than one, for I do not find any Act of Congress which acknowledges him as such. I conclude that no derangement of Officers belonging to the Quartermasters Department, nor any alteration of their pay subsequent to the Resolve of the 13th February, 1777, can be applied to Col. Campbell. I must therefore pray Congress to determine whether He is still in pay, or to what period he is intitled to pay and subsistence.

I have the honor etc.

JON<sup>th</sup> BURRAL,  
*Com<sup>r</sup> for Q M<sup>r</sup> and Com<sup>r</sup> Dep<sup>ts</sup>.*<sup>1</sup>

To His Excellency,  
the President of Congress.

ANNAPOLIS, *September 14<sup>th</sup>, 1786.*

SIR: Agreeably to the request of the Commissioners assembled at this place, I do myself the Honor to transmit to your Excellency, a Copy of their Report to the Legislatures of those States by whom they were appointed.

I remain etc.

JOHN DICKINSON,  
*Chairman.*

<sup>1</sup> This letter is in No. 31, folio 351. According to indorsement it was read September 20 and referred to Mr. [Edward] Carrington, Mr. [Lambert] Cadwallader, and Mr. [Henry] Lee. *Committee Book No. 190* states that they reported October 10.

His Excellency,  
The President of Congress.

To the Honorable the Legislatures of Virginia, Delaware, Pennsylvania, New Jersey, and New York:

The Commissioners from the said states respectively assembled at the City of Annapolis, humbly beg leave to report:

That, pursuant to their several appointments, they met at Annapolis, in the State of Maryland, on the eleventh day of September Instant, and, having proceeded to a communication of their powers, they found that the States of New York, Pennsylvania, and Virginia, had in substance, and nearly in the same terms, authorised their respective Commissioners "to meet such Commissioners as were or might be appointed by the other States in the Union, at such time and place as should be agreed upon by the said Commissioners, to take into consideration the trade and commerce of the United States, to consider how far an uniform system in their commercial intercourse and regulations might be necessary to their Common interest and permanent harmony, and to report, to the several States, such an Act relative to this great object, as when unanimously ratified by them would enable the United States in Congress Assembled effectually to provide for the same."

That the State of Delaware has given similar powers to their Commissioners, with this difference only, that the Act to be framed in virtue of these powers is required to be reported "to the United States in Congress assembled to be agreed to by them and Confirmed by the Legislatures of every State."

That the State of New Jersey had enlarged the object of their appointment, empowering their Commissioners "to consider how far an uniform system in their Commercial regulations and other important matters might be necessary to the common interest and permanent harmony of the several States and to report such an Act on the subject, as when ratified by them would enable the United States in Congress assembled effectually to provide for the exigencies of the Union."

That appointments of Commissioners have also been made by the States of New Hampshire, Massachusetts, Rhode Island, and North Carolina, none of whom have however attended, but that no information has been received by your Commissioners of any appointment having been made by the States of Connecticut, Maryland, South Carolina, or Georgia.

That the express terms of the powers to your Commissioners supposing a deputation from all the States, and having for object the trade and Commerce of the United States, Your Commissioners did not conceive it advisable to proceed on the business of their mission under the Circumstance of so partial and defective a representation.

Deeply impressed, however, with the magnitude and importance of the object confided to them on this occasion, Your Commissioners cannot forbear to indulge an expression of their earnest and unanimous wish that speedy measures may be taken to effect a general meeting of the States in a future Convention, for the same, and such other purposes, as the situation of public affairs may be found to require.

If in expressing this wish, or in intimating any other Sentiment your Commissioners should seem to exceed the strict bounds of their Appointment, they entertain a full confidence, that a conduct dictated by an anxiety for the welfare of the United States, will not fail to receive an indulgent Construction.

In this persuasion, your Commissioners submit an opinion, that the Idea of extending the powers of their deputies to other objects than those of Commerce, which has been adopted by the State of New Jersey, was an improvement on the original plan, and will deserve to be incorporated into that of a future Convention. They are the more naturally led to this conclusion, as in the course of their reflections on the subject, they have been induced to think, that the power of regulating Trade, is of such comprehensive extent, and will enter so far into the general system of the Federal Government, that to give it efficacy, and to obviate questions and doubts concerning its precise nature and limits, may require a correspondent adjustment of other parts of the Federal system.

That there are important defects in the system of the Federal Government, is acknowledged by the Acts of all those states which have concurred in the present Meeting. That the defects upon a closer examination may be found greater and more numerous than even these acts imply, is at least so far probable from the embarrassments which characterize the present State of our national affairs, foreign and domestic, as may reasonably be supposed to merit a deliberate and candid discussion, in some mode, which will unite the sentiments and Councils of all the States.

In the choice of the mode your Commissioners are of opinion that a Convention of deputies from the different States, for the special



and sole purpose of entering into this investigation and digesting a plan for supplying such defects as may be discovered to exist will be entitled to a preference, from considerations which will occur without being particularized.

Your Commissioners decline an enumeration of those national circumstances on which their opinion respecting the propriety of a future Convention with more enlarged powers is founded; as it would be an useless intrusion of facts and observations, most of which have been frequently the subject of public discussion, and none of which can have escaped the penetration of those to whom they would in this instance be addressed. They are however of a nature so serious as, in the view of your Commissioners, to render the situation of the United States delicate and critical, calling for an exertion of the United virtue and wisdom of all the Members of the Confederacy.

Under this Impression your Commissioners with the most respectful deference, beg leave to suggest their unanimous conviction that it may essentially tend to advance the interests of the Union, if the States by whom they have been respectively delegated would themselves concur, and use their endeavours to procure the concurrence of the other States, in the appointment of Commissioners to meet at Philadelphia on the second Monday in May next, to take into consideration the situation of the United States, to devise such further provisions as shall appear to them necessary to render the constitution of the Federal Government adequate to the exigencies of the Union; and to report such an Act for that purpose to the United States in Congress assembled, as when "agreed to by them and" afterwards confirmed by the Legislatures of every State will effectually provide for the same.

Though your Commissioners could not with propriety address these observations and sentiments to any but the States they have the honor to represent, they have nevertheless concluded from motives of respect, to transmit Copies of this report to the United States in Congress assembled, and to the Executives of the other States.

By order of the Commissioners:

JOHN DICKINSON,  
*Chairman.*<sup>1</sup>

Dated at Annapolis,  
September 14<sup>th</sup>, 1786.

<sup>1</sup> This letter and report are in the *Papers of the Continental Congress*, No. 78, VIII, folios 187-194. According to indorsement they were read September 20. See *post*, October 11.



THURSDAY, SEPTEMBER 21, 1786.

Congress assembled. Present, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

The committee, consisting of Mr. [William Samuel] Johnson, Mr. [Edward] Carrington, Mr. [Henry] Lee, Mr. [Nathan] Dane and Mr. [Nathaniel] Ramsay, to whom was referred a letter of the Secretary at War, of the 20 instant, with a paper enclosed, having reported "That in their Opinion the measures adopted by the said Secretary, relative to the Ordnance and stores, mentioned in his letter, were proper and expedient."

Report, that in their opinion the measures adopted by the said Secretary relative to the arsenal, ordnance and stores of the United States mentioned in his said letter were proper and expedient ~~and the only measures that can be prudently taken under present circumstances~~ and to prevent any damage being done to the said ordnance and Stores hereafter.

*Resolved*, That the Secretary at war adopt such measures and make such arrangements as in his opinion shall be ~~prudent and best calculated to prevent their being seised or damaged by any disorderly men~~ for the preservation of the same.<sup>1</sup>

In order to prevent any damage being hereafter done to the said Ordnance and stores,

*Resolved*, That the Secretary at War adopt such measures and make such arrangements as in his Opinion shall be best calculated for the preservation of the same.

On the report of a committee, consisting of Mr. [Edward] Carrington, Mr. [John Bubenheim] Bayard and Mr. [William Samuel] Johnson, to whom was referred a petition of David Henly,

*Resolved*, That David Henly be allowed five hundred dollars, as an indemnification for his extraordinary expenses,

<sup>1</sup> This report, in the writing of Nathan Dane, is in the *Papers of the Continental Congress*, No. 27, folio 311.

while in Command with the militia employed as a guard over the convention troops at Cambridge, in the state of Massachusetts, in the years 1777 and 1778, and that the board of treasury take Order for the payment of the said sum.

An Ordinance for the Establishment of the Mint of the United States of America; and for regulating the Value and Alloy of Coin:

That a Mint be established for the coinage of gold, Silver, and Copper Money, agreeably to the Resolves of Congress of the 8<sup>th</sup> of August last, under the direction of the following Officers, viz<sup>t</sup>:

An Assay Master—whose duty it shall be to receive Gold and Silver in Bullion, or Foreign Coin, to Assay the same; and to give his Certificates for the Value thereof at the following Rates:

For every Pound Weight Troy of Uncoined Gold or Foreign Gold Coin, Eleven parts fine and One part Alloy—Two hundred and Nine Dollars, seven Dimes and seven Cents, Money of the United States as Established by the Resolves of Congress of the 8<sup>th</sup> of August last, and so in proportion to the fine gold contained in any coined or uncoined gold whatsoever.

For every Pound Weight Troy of Uncoined Silver, or Foreign Silver Coin, eleven parts fine and one part Alloy Thirteen Dollars, seven Dimes, seven Cents and seven Mills, Money of the United States, Established as aforesaid: And so in proportion to the fine Silver contained in any coined or uncoined Silver whatsoever.

A Master Coiner, whose Duty it shall be to receive from Time to Time of the Assay Master, the Bullion necessary for Coinage—to Report to Congress Devices and proofs of the proposed pieces of Coin, and to procure proper Workmen to execute the Business of Coinage, reporting from Time to Time to the Commissioners of the Board of Treasury of the United States, for approbation, and allowance, the Occupation, Number, and Pay of the person so employed.

A Paymaster, whose Duty it shall be to receive, and take charge of the Coin made under the direction of the Master Coiner and to Receipt for the same, To receive and duly enter the Certificates for Uncoined Gold and Silver issued by the Assay Master; and to pay Ninety-five hundredths of the Amount thereof in Gold or Silver Coin, and Five hundredths in the Copper Coin of the United States.

And Be it further Ordained, That the Certificates to be given by the Assay Master, to Persons who shall lodge Gold, or Silver in the

Mint for Coinage, shall be on fine Bank Paper, and exprest in the manner and form following, to Wit:

MINT OF THE UNITED STATES,

\_\_\_\_\_, —, \_\_\_\_\_.

I acknowledge to have received of A. B. for Coinage (here insert the Weight) of (insert the Species) Bullion, for the Amount of which Pay to \_\_\_\_\_ or Bearer, the Sum of \_\_\_\_\_ at ten Days sight, agreeably to the Custom of the Mint.

C. D.,  
Assay Master.

To F. E., Pay Master of the  
Mint of the United States of America

And be it further Ordained, That the Salaries of the Officers above mentioned Shall be \_\_\_\_\_ per year, payable in quarterly payments; and that they settle their Accounts Monthly, agreeable to such forms and Vouchers as shall be prescribed by the Comptroller of the Treasury.

And be it further Ordained, That the Officers mentioned in the within Ordinance, shall enter into Bonds to the United States, for the faithful Execution of the Trust respectively, reposed in them, in the manner and Amount following, to Wit; The Assay Master in the sum of \_\_\_\_\_ D<sup>rs</sup> and two Sureties, each in the sum of \_\_\_\_\_ D<sup>rs</sup>; The Master Coiner, in the sum of \_\_\_\_\_ D<sup>rs</sup>; and two Sureties, each in the sum of \_\_\_\_\_ D<sup>rs</sup>; The Pay Master, in the sum of \_\_\_\_\_ D<sup>rs</sup> and two Sureties, each in the sum of \_\_\_\_\_ D<sup>rs</sup>. And that they shall likewise (as well as every other person employed in the Mint) take and subscribe the Oath of Office, established by the Resolve of the 14<sup>th</sup> March, 1786.

And be it further Ordained, That it shall be the Duty of the Comptroller of the Treasury to Report Monthly to the Commissioners of the Treasury of the United States a Statement of the Mint Accounts, adjusted agreeably to the Usual Forms; and if on such Statement it shall appear that there has been any Neglect, Mismanagement, or abuse of Trust, in any of the Officers mentioned in the within Ordinance, it shall be the Duty of the Commissioners of the Board of Treasury to suspend such Officer or Officers, and to Report thereon specially to the United States in Congress.

And be it further Ordained, That the Copper Coin struck under the Authority of the United States, shall be receivable in all Taxes, or Payments due to the United States, in the proportion of Five Dollars for every hundred Dollars so paid; but that no other Copper Coin whatsoever, shall be receivable in any Taxes or payments whatsoever to the United States.

And whereas, the great Quantities of Base Copper Coin daily imported into, or Manufactured within the Several States, is become so highly injurious to the Interest and Commerce of the same, as to require the immediate Interposition of the Powers vested by the Confederation in the United States in Congress, of Regulating the Value of the Copper Coin so current as aforesaid.

Be it Ordained, That no Foreign Copper Coin whatsoever, shall after the            day of            be current within the United States; and that no Copper Coin struck under the Authority of a particular State, shall pass as a greater Value than One Federal Dollar for two pounds and one quarter of a pound Avoirdupois Weight of such Copper Coin.

And whereas, an Uniformity in the Punishment of persons found Guilty of debasing and Counterfeiting the Coin of the United States, or knowingly uttering the same, is Essential for the prevention of such dangerous Offences.

Be it ordained, That if any Person or Persons shall debase or Counterfeit in any part of the United States, any Gold or Silver Coin struck under the Authority of the said States, or shall knowingly Utter or cause to be Uttered such debased or Counterfeited Gold or Silver Coin the party or parties so offending shall, if Convicted of the same in any Court of Record Established under the Authority of the State in which such Offence is Committed, Suffer the Pains and penalties of Death, without Benefit of Clergy. And be it further Ordained, That if any Person or Persons in any part of the United States shall in the manner above mentioned be convicted of melting, or filing, Clipping or otherwise impairing the Gold or Silver Coin of the United States, The party or parties so Convicted, shall for every such Offence be mulcted in a Fine of            Dollars, Money of the United States, and suffer imprisonment for the space of            Months.

And be it further Ordained, That if any Person or Persons shall in any part of the United States, make, Coin, or Counterfeit any of the Copper Coin of the United States, and be duly Convicted thereof in the manner above Recited, the Party or Parties so convicted shall foe



every such offence forfeit the Sum of \_\_\_\_\_ Dollars, Money of the United States, and suffer imprisonment for the space of \_\_\_\_\_ Months.

And be it further Ordained, That if any Person or Persons not authorised for such purpose by the Master Coiner of the Mint of the United States, shall make any Stamp, Die, or Mould, in Imitation of such as are used in the Mint of the United States, or shall convey out of the Mint any Stamp, Die or Mould, made or used in the Mint of the United States, and shall be thereof, duly convicted in the manner above recited, the Party or Parties so convicted shall for every such Offence forfeit the sum of \_\_\_\_\_, Money of the United States, and suffer \_\_\_\_\_ Years Imprisonment.

And be it further Ordained, That the Residue of Fines imposed by Virtue of this Ordinance, after defraying the Expences incurred on the Prosecution for the same, to the United States, shall accrue to the benefit of the State in which the Conviction took place.

All which is most humbly Submitted.<sup>1</sup>

Board of Treasury,  
September 20<sup>th</sup>, 1786.

The Committee consisting of [Mr. Edward Carrington, Mr. John Cleves Symmes and Mr. Nathan Dane] to whom was referred a letter of the 16<sup>th</sup> March from Cap<sup>t</sup> Thomas Hutchins, Geographer of United States report as follows:

The Committee are of opinion from the best information they can get, that a Surveyor who shall fully and faithfully perform all the duties required of him by the "ordinance for Ascertaining the mode of disposing of the Lands in the Western Territory" cannot, upon an average, proceed more than two Miles per day which, upon the present allowance will entitle him to four dollars, and that in performing this Service he must incur the following daily expence, viz.:

	dol.
For 2 Chain Carriers, 1 Chopper, and 1 Bat-man, at $2\frac{1}{2}\%$ of a dollar each.....	1 $\frac{6}{10}$
For provisions for himself and the said 4 Men, $2\frac{1}{2}\%$ ea.....	1 $\frac{3}{10}$
For the hire of 3 Horses at $2\frac{1}{2}\%$ each.....	7 $\frac{2}{10}$
Total.....	3 $\frac{1}{10}$

<sup>1</sup> This ordinance, signed by Samuel Osgood and Arthur Lee, is in the *Papers of the Continental Congress*, No. 59, III, folio 433. According to indorsement it was read September 21 and made the "Order of day for tuesday." See *post*, October 10. The enclosing letter from the Board is in No. 140, II, folio 323.



This, making no allowance for the Surveyors own time and contingencies, leaves him a loser, and when it is considered that some time must be spent in preparation and travelling previous to the Commencement of the Work, and that interruptions will happen by means of bad weather and other casualties, this loss must still be greater. The Committee are of opinion that the allowance of milage to a Surveyor under the said Ordinance, to comprehend a satisfaction for his labour, his expences, and the casual losses of time, ought to be such as to entitle him for every day he shall proceed upon the work, upon an average to six dollars, and therefore submit to the consideration of Congress, the following resolution, viz.:

*Resolved*, That each Surveyor who shall be employed under the "Ordinance of the 20<sup>th</sup> May, 1785, for Ascertaining the mode of disposing of Lands in the Western Territory" be allowed and paid at the rate of three dollars for every mile in length he shall run, including the Wages of Chain Carriers, Markers, and every other expence attending the same.<sup>1</sup>

FRIDAY, SEPTEMBER 22, 1786.

Congress assembled. Present, as before.<sup>2</sup>

<sup>1</sup> This report, in the writing of Edward Carrington, is in the *Papers of the Continental Congress*, No. 19, III, folio 237. It was read on this or an approximate date. See committee appointed this day on memorial of the Surveyors.

SEPTEMBER 21: The following committee was appointed:

Mr. [Nathan] Dane, Mr. [Henry] Lee, and Mr. [Alexander] White, on a "Memorandum of Surveyors" of Western Lands for pay. It is dated August 14, Banks of the Ohio, and signed by Benjamin Tupper in behalf of all. It is in No. 41, IX, folio 415. Report was rendered September 25.

*Committee Book No. 190.*

Also, according to indorsement, the committee report on a temporary government for the Western Territory was, this day, postponed. *Committee Book No. 189* says it was transferred.

<sup>2</sup> SEPTEMBER 22: The petition of James Giles, for depreciation of pay, was referred to the Secretary at War to report. It is in No. 42, III, folio 293, and according to indorsement was negatived March 22, 1787.

The petition of William Tapp, for depreciation, was read and referred to the Secretary at War to report. It is in No. 42, VII, folio 479.

*Committee Book No. 190.*

## MONDAY, SEPTEMBER 25, 1786.

Congress assembled. Present, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Maryland, Virginia, North Carolina, South Carolina and Georgia; and from Pennsylvania, Mr. [Arthur] St. Clair.

On the report of a committee, consisting of Mr. [Nathan] Dane, Mr. [Henry] Lee and Mr. [Alexander] White, to whom was referred a memorial of the Surveyors employed in the western country, to lay out the lands of the United States, in pursuance of the Ordinance of Congress of May 20, 1785:

*Resolved*, That Benjamin Tupper, William W. Morris, Alexander Parker, James Simpson, Robert Johnson, Isaac Sherman, Absalom Martin and Edward Dowse, be allowed sixteen hundred and seventy-three dollars and  $\frac{6}{10}$  of a dollar, being the amount of their expenditures in the year 1785, as appears by their accounts accompanying the memorial of Thomas Hutchins, geographer of the United States, in December last, and that the geographer govern himself accordingly.<sup>1</sup>

*Resolved*, That each surveyor who shall be employed under the said ordinance for ascertaining the mode of disposing of lands in the Western Territory be allowed and paid at the rate of ~~three~~ two dollars and a half for every mile in length he shall run including the wages of chain carriers, markers, and every other expence attending the same.

Postponed.

The committee, consisting of Mr. [Rufus] King and Mr. [James] Monroe, appointed to confer with the legislature of Pennsylvania, being returned, Report, that in conformity with the act of Congress of the 11th day of August last, they have attended and conferred with the legislature of Pennsylvania, and on the 21 instant received a letter from the

<sup>1</sup> This report, in the writing of Nathan Dane, is in the *Papers of the Continental Congress*, No. 30, folio 427. According to indorsement it was read September 25 and the second resolve thereof postponed. See *ante*, December 27, 1785.

Speaker of the general Assembly of that State, together with their resolution of the same day, in reply to the resolve of Congress and the Communications of the committee, both which they laid before Congress.<sup>1</sup>

The Board of Treasury to whom was referred the Memorial of William Finnie, beg leave to Report:

That on the Settlement of the Memorialists Accounts with the United States as Deputy Quarter Master General for the Southern Department during the late War, there appears to be due him the Sum of Seven thousand one hundred and Ninety-one Dollars, of which Two thousand Six hundred and thirty-four Dollars, and nineteen-ninetieths are stated to be advances made by him at different Periods from the year 1778, and partly in Specie.

That the Memorialist States that for part of this sum he has been actually sued, and obliged to pay; and therefore Prays that Directions may be given to the Comptroller of the Treasury to Cancell the Certificates issued to him for the Balance found due, and that he may receive Drafts for the Amount of the same on the Commissioner for receiving the Federal Taxes in the state of Virginia.

The Memorialist further Claims an Allowance of Pay from the first of January, 1777, to the first of January, 1781, as a Commissary of Military Stores in the State of Virginia, in part payment of which alledges to have received Warrant on Pay Master of the Board of War which has not yet been satisfied.

On the first part of this Memorial the Board beg leave to Report:

That the Claim of the Memorialist for the Reimbursement in Specie of the Monies by him Stated to be advanced for the Service of the United States cannot in the opinion of the Board be considered in a more favorable Point of View, than the Claims of Persons who lent their Money at the same time to the United States, and who have received but a small part of their Interest, and no part of their principal and therefore that it would not be proper to make any

<sup>1</sup> This report, in the writing of Rufus King, is in the *Papers of the Continental Congress*, No. 24, folio 425. The last phrase of the report is "both which are herewith submitted." Speaker Thomas Mifflin's letter, on folio 427, states that the Pennsylvania "House have unanimously agreed to the Report; and I sincerely wish that the succeeding Assembly may be impressed with the Necessity of granting to Congress the Concessions you have requested." An attested copy of the action of the Pennsylvania Legislature is in No. 69, II, folio 557.

distinction in the payment of the Balance appearing due to M<sup>r</sup> Finnie; even if the State of the Treasury was adequate to such payments.

On that Part of the Memorial of M<sup>r</sup> Finnie Claiming pay for his Services as Commissary of Military Stores, the Board beg leave to inform Congress that this Claim has been examined by the proper Officers of the Treasury (Copies of whose Reports on the same are annexed), and that the reasons offered in these Reports appear to the Board sufficient for not admitting any part of the Claim exhibited by M<sup>r</sup> Finnie for the purposes above mentioned.

All which is most humbly Submitted.<sup>1</sup>

Board of Treasury,  
September 25<sup>th</sup>, 1786.

The Board of Treasury to whom was referred a Memorial of the late Brigadier General Scott, claiming Compensation for sundry Expenditures stated to have been by him made for the Relief of the sick Persons at Haddrels Point in the State of South Carolina in the years 1780 and 1781, beg leave to Report:

That the Proofs offered by Gen<sup>l</sup> Scott in support of this Claim are not of that Nature as to admit of a Settlement of the same agreeably to the Usual Forms of the Treasury; or to Enable this Board to form a proper Judgement of the propriety of making the United States chargeable with the Amount thereof.

That this defect of Proof (from the Statement of General Scott) appears imputable to the Desertion of a certain William Kelly (an Aid-de-Camp to the Gen<sup>l</sup>.) who had the Custody of his Papers, amongst which was the particular Account of the Supplies for which Payment is claimed.

That on a Conference with the Commissioner for settling the Accounts of the Hospital Department, the Board find that it will be proper to defer a decision on General Scott's Claim 'till further information is obtained of the Necessity of furnishing supplies above mentioned.

<sup>1</sup> This report, signed by Samuel Osgood, Walter Livingston, and Arthur Lee, is in the *Papers of the Continental Congress*, No. 138, I, folio 405. According to indorsement it was read September 25. The inclosures mentioned are on folios 409 and 417. See *post*, September 28.



They have therefore directed the Commissioner for settling the Accounts of the Hospital Department to lose no time in making the necessary enquiries on this Object.

All which is humbly Submitted.<sup>1</sup>

Board of Treasury,  
September 22<sup>d</sup>, 1786.

TUESDAY, SEPTEMBER 26, 1786.

Congress assembled. Present, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina and Georgia.

GENERAL POST OFFICE,  
*New York, Sept. 25<sup>th</sup>, 1786.*

SIR: It is with great Reluctance that I intrude upon your Excellency at this Time, but such is the nature of the Case, that silence would be criminal.

<sup>1</sup> This report, signed by Samuel Osgood and Arthur Lee, is in the *Papers of the Continental Congress*, No. 138, II, folio 303. According to indorsement it was read September 25 and referred to Mr. [Arthur] St. Clair, Mr. [Edward] Carrington and Mr. [William Samuel] Johnson. See *post*, September 29 and October 3.

SEPTEMBER 25: The following committee was appointed: Mr. [Arthur] St. Clair, Mr. [Jonathan] Sturges and Mr. [Edward] Carrington, on "Report of Com<sup>r</sup> hospital Acco<sup>ts</sup> on petition of Berrien's Executors." A report was rendered October 9.

A letter of August 23 from Oliver Pollock was referred to the Board of Treasury. See *post*, October 3.

A petition of George Jay, praying a ruling of Congress on the specie value of debts due European merchants. It is in No. 42, IV, folio 84, and was forwarded to Congress in a letter of September 22 from the Secretary for Foreign Affairs, who remarked that "it appears to me expedient that all Doubts (if there really be Room for any) respecting the Nature of the Public Securities be removed; for if they could by acquiring Credit and Currency, become subservient to Commerce, our Merchants would be benefitted by it." Jay's letter is in No. 80, III, folio 81.

The petition of George Thompson, executor of the late General William Thompson, for payment of his ration allowance, was referred to the Commissioner of Army Accounts to report and a report rendered September 28, which was read September 29.

*Committee Book No. 190.*



The Irregularity attending the Arrival of the Mail cannot have escaped the Observation of Congress, and the Inattention to its Safety is equally great but no actual Damage can be proved. One only of the contracting Proprietors of the Stages has fulfilled the Stipulations in the Contract; and yet it is said we have no Remedy. Upon an Application to the Commissioners of the Treasury, some of them thought the Bonds of the Delinquents ought to be put in Suit; but others were in doubt whether this could be done with any Prospect of Success as we could not prove any actual Damage sustained; they directed me to apply to Alexander Hamilton Esq<sup>r</sup> for his opinion; and having seen it, thought it adviseable not to risque a Prosecution. The Mail arrives as irregularly as formerly and even more so; there is one now due from the Southward of Philadelphia, which should have arrived here Friday Evening; and the Philadelphia Mail which should have arrived on Friday Evening was not brought to the Office til ten O'Clock on Saturday Morning; and was then delivered by a negro Boy about fifteen Years of Age, who said he had brought it over the River the Night before, that he did not know it was the Mail, but had thrown it upon the Wharf with the Baggage of some Passengers to whom he thought it belonged; that upon their telling him the contrary he put it again on board the Boat, where it remained til two O'Clock in the Morning when he carried it to a neighbouring House; and that it was not discovered to be the Mail until just before he brought it to the Office.

There has been similar, though not equal Inattention to the Eastern Mails which frequently are left at the Office as late as at Eleven and Twelve O'Clock at Night; and in a late Instance, have been carried about the City (and even past the Office) in the Waggon til the Passengers were set down at their respective houses, and then the Mail was left at the Stage-House, from whence it was sent to the Office. These things as well as that the Drivers are not all under Oath, have been represented to the Proprietors but without Effect; and my last Letter to one of them (of which I take the Liberty to enclose a Copy) remains unanswered. I cannot think it right to pay the public Money under such Circumstances without first requesting the direction of Congress and that they may more easily form an Opinion, I take the Liberty of enclosing—

N<sup>o</sup> 1. A Copy of the Contract.

2. The Condition of the Proprietors Bonds; and

3. Queries proposed to M<sup>r</sup> Hamilton with his Replies.

The present Quarter will expire the 30<sup>th</sup> Ins<sup>t</sup> and the Proprietors will expect their Money (which will be ready for them) on the first of next Month.

I have the honor etc.

EBEN HAZARD.<sup>1</sup>

SEP. 26, 1786.

On motion of Mr. [Charles] Pinckney, seconded by Mr. [Henry] Lee,

*Resolved*, That the commission and instructions issued to Mr. John Lamb, for the purpose of negotiating with the Barbary powers, be and they are hereby vacated and annulled; and that the Secretary for foreign Affairs take the necessary measures for directing Mr. Lamb immediately to repair to New York.<sup>2</sup>

<sup>1</sup> This letter is in the *Papers of the Continental Congress*, No. 61, folio 259. It was read, according to indorsement, September 26 and referred to Mr. [Rufus] King, Mr. [Edward] Carrington, and Mr. [William Samuel] Johnson. A further indorsement, by Roger Alden, reads "Not reported." The inclosures are on folios 263-274.

<sup>2</sup> This proceeding is entered by Thomson in *Secret Journal, Foreign*, No. 5. A copy by Benjamin Bankson, signed by Thomson, is in *Secret Journal*, No. 6.

SEPTEMBER 26:

On this day the Board of Treasury reported on the accounts of money advanced to delegates, in accordance with the resolve of September 19. The report, the reading of which in Congress cannot be verified, is in No. 140, II, folio 327. It is indorsed by Roger Alden: "See printed Statement containing 82 pages from Registers Office."

Also, according to indorsement, were read two letters of September 25, from the Secretary for Foreign Affairs. The first transmitted a letter of July 5 from William S. Smith announcing the failure of British plans to aid South America to revolt from Spain and the probability of Britain's next move being against the Mississippi Country. Jay's letter is in No. 80, III, folio 85; Smith's is in No. 92, folio 98. The second letter from the Secretary for Foreign Affairs inclosed two letters from John Adams, one of June 27 informing that the Queen of Portugal had dispatched a squadron to protect Portuguese ships from the Algerines and had ordered it to protect American ships also. Jay's letter is in No. 80, III, folio 89; Adams' is in No. 84, VI, folio 307. See *post*, September 29. Adams' letter of July 30 treats of incidental matters and is on folio 343.

WEDNESDAY, SEPTEMBER 27, 1786.

Congress assembled. Present as yesterday.

The Agents for the States of New York and Massachusetts, presented to Congress the following representation and request, to wit:

To the honorable the United States of America in Congress assembled, the subscribers, Agents of the States of New York and Massachusetts, beg leave to represent that they have agreed upon the hon<sup>ble</sup> William Hooper, Esq<sup>r</sup> of North Carolina, to be a judge instead of the honorable James Monroe, esquire, who hath declined his appointment to sit in a federal court, for the trial of a controversy between the said states of Massachusetts and New York, which controversy is suggested in the petition of the former, now on the journals of Congress; and thereupon the said Agents do humbly request that notice hereof may be given to the said William Hooper, esq<sup>r</sup> and that upon his acceptance, a commission may be issued to him, together with the Honorable Thomas Johnson, George Wythe, George Read, Isaac Smith, William Patterson, Samuel Johnson, William Fleming and John Seagraves, esquires, constituting them a court, according to the Confederation, to hear and determine the controversy aforesaid.

Dated 22d September, 1786.

N. GORHAM,  
R. KING,  
N. DANE,  
*Agents for Massachusetts.*

JAS. DUANE,  
JOHN HARING,  
MELANCTON SMITH,  
EGBERT BENSON,  
*Agents for New-York.*<sup>1</sup>

OFFICE OF SECRETARY OF CONGRESS,  
*Sept. 27, 1786.*

On the petition of Robert Yauncey stating that in March, 1777, he acted as paymaster to the first regiment of Cavalry; that in discharge

<sup>1</sup> The original is in No. 67, II, folio 507. A draft of Thomson's letter to William Hooper, notifying him of his appointment, is in No. 55, folio 327.

of his duty he repaired to Middlebrook and before he had finished paying the Men the enemy advanced and he lost a horse.

Agreed 28 Sept. The Secretary of Congress reports that the petition of Robert Yauncey be referred to the board of treasury.<sup>1</sup>

THURSDAY, SEPTEMBER 28, 1786.

Congress assembled. Present, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina and Georgia; and from Maryland, Mr. [Nathaniel] Ramsay.

SEPTEMBER 28, 1786.

A motion having been made by Mr. [Charles] Pinckney, seconded by Mr. [Edward] Carrington, in the words following:

Whereas under the ninth of the Articles of Confederation the assent of nine states is necessary for the purpose of entering into treaties or alliances: And whereas the hon<sup>ble</sup> John Jay, Secretary to the United States for the department of foreign Affairs, was on the 20 July and 25 August, 1785, with the assent and under the authority of nine States, instructed to enter into a negotiation with Don Diego de Gardoqui, Encargado de Negocios of his Catholic Majesty, upon certain principles, and under certain restrictions herein after mentioned: And whereas, on the 29th day of August last, on the report of a committee of the whole being taken into consideration, only seven states agreed that the last clause in the said instructions, namely, "And that the following be substituted in its place—that the Secretary to the U. S. for the department of foreign Affairs be and hereby is instructed, in his plan of a treaty with the Encargado de Negocios of

<sup>1</sup> This report is entered in *Reports of the Secretary of Congress*, No. 180.

On this day also, according to indorsement, was read a letter of September 25 from Samuel Holden Parsons, explaining his delays in starting under his appointment. It is in No. 78, XVIII, folio 611.



his Catholic Majesty, particularly to stipulate the right of the United States to their territorial bounds, and the free navigation of the Mississippi from the Source to the Ocean, established in their treaties with Great Britain, and that he neither conclude or sign any treaty, compact or convention with the said Encargado de Negocios, until he hath previously communicated it to Congress and received their Approbation," should be repealed; which repeal tending to enlarge and alter the powers of the Negotiator, and leaving him at liberty to form a treaty upon other and more extensive principles than the former instructions authorised, is objected to by the states of Maryland, Virginia, North Carolina, South Carolina and Georgia, who consider the said question of a partial repeal as lost, as the powers of a Negotiator on the subject of forming treaties ought not, or cannot by repeal or otherwise be altered or enlarged by a less number than nine states, without a flagrant violation of the principles of the Confederation, and a destruction of those guards it has wisely established for protecting the interests of all the members of the confederacy: And whereas, notwithstanding the said question ought to be considered as lost, and although the President only declared that a majority of the house, (meaning the said seven states) had agreed to that part of the report of the committee of the whole, but did not decide that the same was carried, and could be considered as a constitutional resolution of the house, the Secretary of Congress has entered the same on their journal as a resolution of the house; which said entry is not a true account of the proceedings of Congress. The sense of Congress is required on the following question—Is the Entry on the journal of the proceedings of the 29th day of August last, a true state of the said proceedings so far as they respect the assent of the said seven states to the repeal



of that part of Mr. Jay's instructions beforementioned; or ought the same to be entered on the journal in the nature of a resolution, as being substantially the same as that moved and set aside by the previous question on the 31st of August? and therefore—

On this a question of order was moved contrary to the order of the 1st of the present month, viz. "That when a question is set aside by the previous question, it shall not be in order afterwards formally or substantially to move the same unless there shall be the same or as many states represented in Congress." And the president having declared that the said motion was not in Order, an Appeal was made from the judgment of the chair by Mr. [Charles] Pinckney; and on the question, Shall the judgment of the president be reversed, the yeas and nays being required by Mr. [Charles] Pinckney <sup>1</sup>—

<i>Massachusetts,</i>			<i>Maryland,</i>	
Mr. King,	no	}no	Mr. Ramsay,	no}*
Dane,	no		<i>Virginia,</i>	
<i>Rhode Island,</i>			Mr. Carrington,	ay
Mr. Manning,	no	}no	Lee,	no}div.
Miller,	no		<i>North Carolina,</i>	
<i>Connecticut,</i>			Mr. Bloodworth excused at	
Mr. Johnson,	no	}no	his request.	
Sturges,	no		White,	no}*
<i>New York,</i>			<i>South Carolina,</i>	
Mr. Haring,	no	}no	Mr. Bull,	ay
Smith,	no		Pinckney,	ay}ay
<i>New Jersey,</i>			Parker,	ay}
Mr. Cadwallader,	no	}no	<i>Georgia,</i>	
Symmes,	ay		Mr. Houstoun,	no
Hornblower,	no		Few,	ay}div.
<i>Pennsylvania,</i>				
Mr. Pettit,	no	}no		
St. Clair,	no			

<sup>1</sup> This motion, in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 81, II, folios 293-297. The vote is entered on this manuscript in Thomson's writing.

So the question was lost.

A motion was then made by Mr. [Charles] Pinckney, seconded by Mr. [Edward] Carrington.

That the injunction of Secresy be taken off so far as to allow the delegates in Congress to communicate to the legislatures and executives of their several states the Acts which have passed, and the questions which have been taken in Congress, respecting the Negotiation between the United States and his Catholic Majesty.<sup>1</sup>

And on the question to agree to this, the yeas and nays being required by Mr. [Charles] Pinckney—

<i>Massachusetts,</i>			<i>Pennsylvania,</i>		
Mr. Gorham,	no	}	Mr. Pettit,	no	}
King,	no		St. Clair,	no	
Dane,	no				
<i>Rhode Island,</i>			<i>Maryland,</i>		
Mr. Manning,	no	}	Mr. Ramsay,	ay	}
Miller,	no				
<i>Connecticut,</i>			<i>Virginia,</i>		
Mr. Johnson,	no	}	Mr. Monroe,	ay	}
Sturges,	no		Carrington,	ay	
			Lee,	ay	
<i>New York,</i>			<i>North Carolina,</i>		
Mr. Haring,	no	}	Mr. Bloodworth,	ay	}
Mr. Smith,	no			White,	
<i>New Jersey,</i>			<i>South Carolina,</i>		
Mr. Cadwallader,	no	}	Mr. Pinckney,	ay	}
Symmes,	ay			Parker,	
Hornblower,	no				
			<i>Georgia,</i>		
			Mr. Houstoun,	no	}
			Few,	ay	

So the question was lost.<sup>2</sup>

<sup>1</sup> This motion, in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 81, II, folio 201.

<sup>2</sup> This proceeding was entered by Thomson in *Secret Journal, Foreign*, No. 5. A copy, signed by Thomson, is in *Secret Journal*, No. 6.

In No. 81, II, folio 292, *Papers of the Continental Congress*, is the following motion, in the writing of Nathan Dane. It is undated but appears to belong to this period: "*Resolved*, That the delegates in Congress assembled have leave to communicate to the Legislatures of their respective states the difficulties which

WAR OFFICE, *September 28<sup>th</sup>, 1786.*

SIR: I have the honor to transmit to Congress the copy of a letter received from his Excellency Governor Bowdoin, and also a copy of his orders to Major General Sheppard in consequence of my representation of the 16<sup>th</sup> instant. The Governor must have supposed I still remained at Springfield and therefore enclosed Major General Sheppard's original orders to me at that place.

I cannot refrain from remarking to the honor of his Excellency's Zeal for the protection of the stores of the United States that his orders were issued instantly on the receipt of my letter. But as I apprehend that some serious difficulties might arise were I in consequence of the Governor's orders to General Sheppard, to desire him unconditionally to call forth a considerable body of the militia, and station them at the Arsenal, I humbly beg leave to state them to Congress.

At the time I wrote to the Governor from Springfield the height to which the disorders might arise, or the direction they might take were uncertain. Enough of a lawless and desperate spirit had been manifested to alarm the well affected to Government for the safety of the stores. The mal-contents openly avowed the idea, that should the Government attempt to punish them, that they easily could obtain the means of defence from the Arsenal. Their conduct had already evinced that they were capable of perpetrating this crime however great.

I could not ascertain with precision, the nearness, or degree of danger, which threatened the stores, as both might depend materially, on the vigor with which the government might proceed in punishing the ring leaders of the insurrection. I could not therefore request a guard of any specific numbers, but supposed that circumstances must regulate its strength. But the information of some of the most respectable characters in the state, render it my duty to make the application to the Governor.

Springfield is surrounded by the disaffected, who must however be supposed to be much inferior in number, to those whose affections are

imbarass Congress relative to the instructions given to the Hon<sup>ble</sup> John Jay Esq<sup>r</sup> to be observed by him in his management of a treaty with his Catholic Majesty in order to obtain from the Legislatures of the several states instructions to their delegates touching the premises, that their delegates may govern themselves accordingly."

favorable to Government, yet their deficiency in this respect might probably be made up by their daring temerity. A feeble attempt to raise a guard for the protection of the stores would probably precipitate their loss, as the mal-contents might regard it as the first step towards their destruction.

In so critical a case, all that appeared practicable was an endeavour, that Major General Sheppard should be invested with the legal authority, to call forth the well affected militia, and take every other necessary measure, which exigencies might require. His residence in the vicinity of Springfield, his vigilance and dispositions would enable him from time to time to know the designs of the mal-contents and to endeavor to frustrate them. In the last resort, if he should be dubious of his force, it was considered as practicable to obtain a decided superiority from the neighbouring militia of Connecticut.

Besides the danger before alluded to in calling out a body of militia for the security of Springfield, the expense of subsisting them would be considerable, and must be defrayed by the United States, which if practicable would greatly embarrass the Treasury.

Were there a respectable body of troops in the service of the United States, so situated as to be ordered immediately to Springfield, the propriety of the measure could not be doubted. Or were the finances of the United States in such order, as to enable Congress to raise an additional body of four or five hundred men and station them at the respective arsenals the spirit of the times would highly justify the measure. For it may be observed that if one of the Arsenals which was conceived to be perfectly secure from its situation, is suddenly endangered from strange circumstances, the others are liable to the same evil, and in an instant the nation may be deprived of its invaluable apparatus of war, which may be converted to the subversion of all government.

But it would be an evil of the most dangerous tendency to raise an additional body of troops and station them at the Arsenals without the absolute certainty of paying them much better than those now in service on the frontiers.

Having thus stated the previous steps on this occasion, I beg leave humbly to submit to Congress, Whether considering the nature of a militia guard, the probable operation such a measure may have on the conduct of the mal-contents and the certainty of a considerable expence which would be incurred, it would be proper to enforce unconditionally the orders of his Excellency Governor Bowdoin to

Major General Sheppard of the Massachusetts militia, to raise a certain body of men for the protection of the Arsenal at Springfield; or whether it would not be most proper, to rest the execution of the order with Major General Sheppard agreeably to the arrangements already made with him on the subject.

I feel a diffidence in troubling Congress with this matter, but its importance and the critical circumstances attending it, will I hope plead my excuse.

I have the honor to be etc.

His Excellency,

The President of Congress.

H. KNOX.<sup>1</sup>

FRIDAY, SEPTEMBER 29, 1786.

Congress assembled. Present, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina and Georgia.

Congress proceeded in the Consideration of an Ordinance for the government of the Western territory, reported by Mr. [William Samuel] Johnson, Mr. [Charles] Pinckney, Mr. [Melancton] Smith, Mr. [Nathan] Dane and Mr. [John] Henry:

And the following clause being under debate, to wit:

The governor, judges, legislative council, Secretary, and such other officers as Congress shall at any time think proper to appoint in such district, shall take an Oath of Office, prescribed on the 27 day of January, 1785, to the Secretary at War, *mutatis mutandis*.

<sup>1</sup> This letter is in the *Papers of the Continental Congress*, No. 150, I, folio 567. copy of Gov. James Bowdoin's letter, dated September 19, is on folio 559. A copy of Bowdoin's orders to Maj. Gen. William Sheppard is on folio 563.

SEPTEMBER 28: The following committee was appointed: Mr. [Rufus] King, Mr. [Melancton] Smith and Mr. [Nathan] Dane, on "Report of board of treasury on mem<sup>l</sup> Will<sup>m</sup> Finney." Report was rendered October 4.

The account of John Quincy Adams, as secretary to Francis Dana, and rendered by Dana, was referred to the Board of Treasury to report and a report rendered October 13.

The petition of Robert Yauncey was referred to the Board of Treasury.

*Committee Book No. 190.*



A motion was made by Mr. [Melancton] Smith, seconded by Mr. [John] Haring, to amend the same, by striking out the latter part of that paragraph, viz.

“An Oath of Office, &c.” to the end; and in lieu thereof, inserting, “An Oath of fidelity to the United States, in the words following, viz. I, A. B. appointed to the Office of                    do acknowledge, that I do owe true and faithful allegiance to the United States of America, and I do swear (or affirm) that I will, to the utmost of my power, support, maintain and defend the said United States in their freedom, sovereignty and independence, against all opposition whatsoever.” And also, an Oath of Office in the words following, viz. I, A. B. appointed to the Office of                    do swear (or affirm) that I will faithfully, truly and impartially execute the Office of                    to which I am so appointed, according to the best of my skill and judgment.

On the question to agree to this amendment, the yeas and nays being required by Mr. [Melancton] Smith,

<i>Massachusetts,</i>			<i>Pennsylvania,</i>		
Mr. Gorham,	ay	}no	Mr. Pettit,	no	}no
King,	no		St. Clair,	no	
Dane,	no		<i>Maryland,</i>		
<i>Rhode Island,</i>			Mr. Henry,	no	*
Mr. Manning,	ay	}ay	<i>Virginia,</i>		
Miller,	ay		Mr. Carrington,	no	*
<i>Connecticut,</i>			<i>North Carolina,</i>		
Mr. Johnson,	no	}no	Mr. Bloodworth	ay	}ay
Sturges,	no		White,	ay	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Haring,	ay	}ay	Mr. Bull,	no	}no
Smith,	ay		Pinckney,	no	
<i>New Jersey,</i>			Parker,	no	
Mr. Cadwallader,	ay	}ay	<i>Georgia,</i>		
Symmes,	ay		Mr. Houstoun,	no	}no
Hornblower,	ay		Few,	no	

So the question was lost.

A motion was then made by Mr. [Melancton] Smith, seconded by Mr. [Timothy] Bloodworth, to strike out the

paragraph; And on the question, shall the paragraph stand? the yeas and nays being required by Mr. [Melancton] Smith,

<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Gorham,	no	} ay	Mr. Henry,	ay	}*
King,	ay		<i>Virginia,</i>		
Dane,	ay		Mr. Monroe,	no	
<i>Rhode Island,</i>			Carrington,	ay	} ay
Mr. Manning,	ay	} ay	Lee,	ay	
Miller,	ay		<i>North Carolina,</i>		
<i>Connecticut,</i>			Mr. Bloodworth,	no	} div.
Mr. Johnson,	ay	} div.	White,	ay	
Sturges,	no		<i>South Carolina,</i>		
<i>New York,</i>			Mr. Bull,	ay	} ay
Mr. Haring,	no	} no	Pinckney,	ay	
Smith,	no		Huger,	ay	
<i>New Jersey,</i>			<i>Georgia,</i>		
Mr. Cadwallader,	ay	} ay	Mr. Houstoun,	ay	} ay
Symmes,	ay		Few,	ay	
Hornblower,	no				
<i>Pennsylvania,</i>					
Mr. Pettit,	ay	} ay			
St. Clair,	ay				

So it was resolved in the affirmative.

The further consideration of the Ordinance being postponed,

WAR OFFICE, 29 Sept. 1786.

SIR: I have this Ins<sup>t</sup> receiv'd the Orders of Congress, and shall immediately proceed to the execution. I take the liberty to submit to the consideration of Congress whether, as some other unavoidable expences will arise in the prosecution of this business so that it will not be proper that the Treasury Board should advance me a sum of Money not exceeding one thousand Dollars for which I shall be accountable.

I have the honor etc.,

H. KNOX.<sup>1</sup>

His Exc<sup>z</sup>

The President of Congress.

<sup>1</sup> This letter is in No. 150, I, folio 575.

On motion of Mr. [Charles] Pinckney, seconded by Mr. [John] Henry,

*Resolved*, That the board of treasury be, and they are hereby directed, to advance to the secretary at War, one thousand dollars; he to be accountable.<sup>1</sup>

The delegates for Georgia, laid before Congress an Act of that state, in pursuance of the recommendation of the 30 April, 1784, passed the 2d of August, 1786, vesting the United States in Congress assembled, for the term of 15 years, commencing on the day Congress shall begin to exercise the powers, with a power to prohibit the importation or exportation of goods, wares or merchandize, in ships belonging to, or navigated by subjects of powers with whom the U. S. shall not have formed treaties of Commerce, and to prohibit the subjects of foreign states, unless authorised by treaty, from importing goods, wares or merchandize which shall not be the produce or manufacture of the dominion of the sovereign whose subjects they are, provided that nine states agree in the exercise of this power, and that it do not extend to prohibit the importation of negroes, and that the Act shall not have force until the other twelve states have substantially complied with the recommendation above mentioned.<sup>2</sup>

The Commissioner for settling the Accounts of the late Army, to whom was referred the Petition of George Thompson, Executor, to the Estate of the late Gen<sup>l</sup> W<sup>m</sup> Thompson, begs leave to report that the Petitioner's Demand for rations of the General from the 8<sup>th</sup> of June, 1776, the time of his being made a Prisoner, to the 3<sup>d</sup> of September, 1781, when he died, is attended with some difficulties; the principal of which is that the General Officers of the Army not being confined to one ration daily as was the case of the regimental officers, have drawn from different Commissaries, such quantities of Provisions on Account, as they found necessary for the supply of their respective Tables. That but few if any of those Gentlemen ever kept any regular account of their drafts upon the Commissaries, and that the Accounts of that department (as will appear by Mr. Burrell's Letter to your Commissioner accompanying this report) are in such a situation that they cannot furnish such Information as may

<sup>1</sup> This motion, in the writing of Charles Thomson, is indorsed on Knox's letter of September 29, above.

<sup>2</sup> An exemplification of this act of Georgia is in No. 76, folio 282.

be relied on, in the case of Gen<sup>l</sup> Thompson, as there is no Account of his, by which the quantity drawn may be determined, your Commissioner has searched in the Office of Mr. Burrell for the Accounts, and finds that the Gen<sup>l</sup> received rations at Carlisle from September 1<sup>st</sup>, 1777, the Account of which is obtained, but whether he drew any before that time and where, is unknown as well as whether he drew after that time from any other Commissary, tho' it is probable he did not as he was for the most of the time a Prisoner and on Parole and lived with his Family at that Post.

Your Commissioner further begs leave to report on the Forage Account, which is for the same Period of time with the rations, that he has not in any Instance undertaken the settlement of such Accounts, because that these allowances have ever been considered as within the Forage Master or Quarter masters department, and the knowledge of the quantity drawn by the Officers and of what has been paid for, can not be come at, so that the Accounts can be checked. Nor is your Commissioner informed of the Price or Quantities of a ration of forage as allowed from time to time in that Department or whether the Exception of the resolve of July 15<sup>th</sup>, 1780, confining the Allowance to Officers in Camp, and those on public service, has been construed to include the Prisoners.

Your Commissioner further begs Leave to report that the Gen<sup>l</sup> stands charged in the public Books with the following sums, viz.:

1775 July 29 <sup>th</sup> , on Acc <sup>t</sup> of his Reg <sup>t</sup> .....	5,000
October, Pay of his Reg <sup>t</sup> for Aug <sup>s</sup> .....	4,671 <sup>80</sup>
Nov <sup>r</sup> , d <sup>y</sup> for September.....	4,541 <sup>76</sup>
1776 Oct: 2 <sup>d</sup> , for men ret <sup>d</sup> from Captivity.....	5,366 <sup>60</sup>

Dolls.. 19,579<sup>70</sup>

for which no perfect Account of its Payment can be rendered by his Executor; but as the Pay of the Regiment has not been drawn prior to August, 1775, and as the Gen<sup>l</sup> made Advances for the recruiting and Equipment of the men, it is clear to your Commissioner that the Gen<sup>l</sup> must have necessarily advanced at least to the Amount of 5,000 dollars charged against him. The two following sums have no Vouchers and the last is considerably deficient but as the Money was received on Accounts settled and for men present at the time it was drawn it is reasonable to conclude that it was paid as soon as received; this Conclusion may also be justified from the Gen<sup>l</sup>'s Character, and that the Men have always a Claim on his Estate in Case it was not paid.

The Petitioner has also produced an Account extracted from sundry memorandums and Papers found since the Gen<sup>l</sup>'s decease; they consist of extra personal Expences Monies paid to Indians, for Expresses, Spies, Provisions, Medecine, Camp Furniture, and Advances to Officers, most of which are accompanied with no vouchers for the Payment of the Money excepting the original Accounts and that they the United States yet your Commissioner conceives it to be necessary in Case they are admitted that he should first be honored with the Approbation of Congress.

All which is humbly submitted.

JN<sup>o</sup> PIERCE.<sup>1</sup>

Office of Army Accounts,  
Sept. 28<sup>th</sup>, 1786.

The Committee consisting of [Mr. Arthur St. Clair, Mr. Edward Carrington and Mr. William Samuel Johnson] To whom was referred the memorial of the late General Charles Scott, together with the report of the Treasury board thereupon beg leave to report:

That it appears from the receipt of a certain Job Colcock, that the memorialist paid him five Hundred and fifty pounds sterling, fifty pounds whereof was for a discount in negotiating a Bill of exchange Drawn by the memorialist on Robert Munford and Thos. Parson Esqrs. and the remaining five hundred pounds was for the amount of sundry dealing during the memorialists Confinement as a Prisoner on Hadrels point, in the years 1780 and 1781. It appears from the certificates of a certain Cornelius Baldwin Senior Surgeon, and Sundry Field Officers of the Virginia line, who were prisoners with the memorialist, that he did furnish Hospital Stores for the sick of the said line, while on Hadrels point, to a very considerable amount. It appears by the oath of the memorialist, that in destitute situation of the said Prisoners, of both public and private means of obtaining Hospital Stores, and by the sickness which prevailed amongst them, they were reduced to the most extreme distress. that soon after they had been placed on Hadrels point, the memorialist obtained from his Friends in Virga. such sums in money and letters of Credit, as enabled him to administer some relief to the sufferers who were less fortunate than

<sup>1</sup> This report is in the *Papers of the Continental Congress*, No. 62, folio 185. According to indorsement it was read September 29. *Committee Book No. 190* states that it was referred to Mr. [Arthur] St Clair, Mr. [Melancton] Smith and Mr. [John] Henry, who reported October 2.



himself. That, in this situation it was impossible for him to withhold from them such things as their comforts, and in many instances lives depended on. That a part of the Funds extended to him consisted in a power to draw upon Robert Mumford and Thomas Parson Esqrs. to the amount of five hundred pounds sterling, if he could negotiate such a draft. That the aforesaid Job Colcock agreed to give him a Credit in such dealings as he might from time to time want for such a draft. That upon this Credit there were obtained from Mr. Colcock during the memorialists confinement such articles as were wanted for the use of his Family, and for the purposes aforesaid. that the things were generally brought to the memorialists quarters and from thence drawn for the use of the sufferers as they were required. That the memorialist directed a certain William Kelly who had for several years lived in his family as an Aid de Camp, and had usually done his public, as well as private business, to keep an Account of the expenditures that should go out of the Family. that the said William Kelly deserted sometime before the memorialist left his confinement to come home on parole, and left none of the Accounts which had come into his hands in these transactions, so that the memorialist is now unable to shew the particulars that were furnished for public use, except as to 160 lb. of Bark at 30/ per. pound, which, being all purchased at once is perfectly within the memorialists remembrance, but the memorialist alledges, that Wine, Sugar, Coffee, Vinegar, and other things of such kind were in the same manner obtained, as the distresses of the Prisoners demanded them. that he was himself in so low a state of health as to require what he used, rather as an invalid, than otherwise, and that he did not remain with the other Prisoners longer than about ten Months.

Your Com. upon considering the foregoing statement, are of opinion that the peculiar situation of General Scott at Hadrels point, was such as to merit a very liberal interposition of Congress to reimburse the expenditures which were really made by him for the relief of the sick Prisoners there, as it is well known that Congress could not, and therefore did not at that time afford what was adequate to that purpose, it is also to be considered that the fatigues of the Siege these unhappy Men had just before sustained, the climate and the season of the year, all conspired to occasion much sickness amongst them and that a man circumstanced as the memorialist was, high in Rank and naturally looked to for relief by the sufferers could not have

with held from them the supplies which it was in his power to administer.

Your Com. are therefore of opinion that the memorialist ought to be paid for so much of his claim as can with reasonable certainty be adjudged to have been necessarily furnished for public use which in their opinion is sufficiently ascertained as to the Bark, as such an article could not be required for any other than Hospital use but as the other parts of the claim are for articles which are not in their application peculiar to hospital demands, your Com. think it will be proper to refer to those who were at that time charged with the care of the public hospitals for regular information whether the public supplies were adequate to the necessities of the sick to whom it is alledged these were made by the memorialist and upon such information it will be proper for such further decision to be made as may seem just. Your Com. therefore submit the following Resolution.<sup>1</sup>

MONDAY, OCTOBER 2, 1786.

Congress assembled. Present, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina and Georgia; and from Rhode Island, Mr. [Nathan] Miller, and from Maryland. Mr. [John] Henry.

The Committee [consisting of Mr. Arthur St. Clair, Mr. Melancton Smith, and Mr. John Henry] to whom was referred the Report of the Commissioner for Army Accounts upon the Petition of the Executor of the late Brigad<sup>r</sup> Gen<sup>l</sup> Thomson beg leave to report that they have taken into Consideration the Report of the said Commissioner together with the Accounts and papers presented to them by the said Executor, and are of Opinion upon the first Article in the Report, viz., the Demand of the Executor for retained Rations of Provision, That the irregularities of the Commissaries furnish no ~~good~~ Argument

<sup>1</sup> This report, in the writing of Edward Carrington, is in the *Papers of the Continental Congress*, No. 19, V, folio 301. The resolution submitted was adopted October 3 and is there spread *verbatim* on the Journal.

Also, on September 29, according to indorsement, "The injunction of Secresy" was taken off of the letter of the Secretary for Foreign Affairs, of September 25, forwarding letter of John Adams, and the business referred back to the Secretary for report. See *ante*, September 26,

against the payment to officers for such part of their Rations as they have not received. That the allowance of a certain number of Rations, according to their different Ranks was a part of the made with them, and where no Charges of provisions issued appears, it is prima Facie evidence that none was issued. That in many Cases it must have been next to impossible for Officers to make regular Accounts of the Provisions received by them, or, from the frequent and sudden movements of the Troops, to have preserved them if they had been made. That it is notorious the Stores were often in a Situation to afford nothing besides Beef and Bread while many other Things entered into the Composition of a Ration; and were frequently so ill supplied those that, where Officers were entitled to draw more than a single Ration, it would have been highly imprudent, if not criminal to have done it. That in those cases they were obliged to procure what was necessary for their Tables by applying money from their private Funds to the purchase of them. That if, after the Settlement of such Accounts, it should appear from a more correct examination of the Commissaries Books any Quantity of Provision has been omitted to be charged the united States will have a remedy against the Persons who received it; but, should all settlement of these Accounts be refused because of the Irregularities of the Commissarys, an Injury absolutely without Remedy, would be done to many—even the suspending the settlement, would provoke the same; because the Commiss<sup>r</sup> for those Accounts states that he cannot bring many of them to render their Accounts at all, and would consequently be putting them off for ever. That if some loss may be sustained it is more reasonable that it should fall upon the public than upon Individuals because in their Case it can but [be] a very small loss; in the other it may be a very great one. That as Gen<sup>l</sup> Thomson was a Prisoner, and resided at Carlisle in the State of Pennsylvania from the time he was liberated on Parole until that of his Death there is no probability that he drew Provisions at any other Post and the Quantity issued to him there is ascertained. They therefore submit the following Resolution:

That on the Claim for retained Rations of Forage your Committee are of Opinion the Reasons for allowing payment for retained Rations of Provisions apply equally to those of Forage; But as, from the Circumstance of the Generals having been a Prisoner his Family must have been dissolved, and the number of Rations as stated by the

Resolution of the 15 July, 1780, to be for a Brigadier and his Family, it would not be proper to allow the whole number. As Gen<sup>l</sup> Thomson, however, was in constant Expectation of being exchanged, he did, no doubt, keep himself provided with a number of Horses proper to take the Field with; which Number in the Opinion of the Committee could not be less than three. The Exception in the Resolution of July 15<sup>th</sup>, 1780, tho' expressed in very general terms, was, clearly, never intended to extend to Officers of every Description, and the only case where Forage by that Resolution is not allowed them is when, having obtained leave of Absence, they have absented themselves beyond the limited time. The Quantity of species of Forage composing a Ration is fixed by Resolutions of Congress, and there can be little difficulty in ascertaining the Value; because, it was made the Duty of the D. Q<sup>r</sup> M<sup>r</sup> Gen<sup>l</sup> for the States to ascertain it, and the Q<sup>r</sup> M<sup>r</sup> Gen<sup>l</sup> was in the constant habit of paying for the same. The Committee are therefore of opinion that it should be resolved—

That the Commissioner for settling the Accounts of the Q<sup>r</sup> M<sup>r</sup> Gen<sup>l</sup> Depart<sup>d</sup> adjust the Forage Account of the late Brig<sup>d</sup> Gen<sup>l</sup> Thomson in allowing him three rations of Forage pr. day and certify to the Commissioner for Army Accounts any Ballance that may be due to or from the said Brigadier, who shall take order thereupon accordingly.

Posponed.

With respect to the Sums which stand charged against Gen<sup>l</sup> Thomson in the public Books your Committee are of Opinion that he should be discharged from the same for the Reasons assigned by the Commissioner, and because it was the Practice, at the times these charges were made, to deliver to the Colonels the whole pay of the Regiments; and there is every Reason to believe, both from the Character of the General, and that no demand has since been made for the whole or any part that they were regularly paid over. The appointment of regimental Paymasters was a later Regulation, and two of the Charges are expressly stated to have been pay for his Reg<sup>t</sup>.

The Committee are farther of Opinion that in the Account of Disbursements extracted by the Executor from Memorandums found amongst the Generals Papers, all such Articles as appear to be proper charges against the united States should be passed to his Credit, although they are not accompanied with the proper Vouchers, because, it is to be considered that it was not always practicable to take such Vouchers—that it is now impossible, from the Circumstance of



his Death, to supply the want of them in the manner allowed by Congress, and that they appear in such Shape as to carry indubitable marks of their authenticity whereupon they offer the following Resolution.<sup>1</sup>

TUESDAY, OCTOBER 3, 1786.

Congress assembled. Present as yesterday.

On the report of a committee, consisting of Mr. [Arthur] St. Clair, Mr. [Edward] Carrington and Mr. [William Samuel] Johnson, to whom was referred a Memorial of the late general Charles Scott, together with the report of the board of treasury thereon,

*Resolved*, That there be allowed to the late general Scott, one thousand and sixty-six dollars, and sixty-ninetieths of a

<sup>1</sup> This report, in the writing of Arthur St. Clair, is in the *Papers of the Continental Congress*, No. 19, VI, folio 29. According to indorsement, it was read October 2; the two submitted resolves were passed October 3, where they are spread on the Journal of that day with a minor change by Congress in the last resolution.

OCTOBER 2: The following committees were appointed:

Mr. [Charles] Pinckney, Mr. [Melancton] Smith and Mr. [John] Henry, on "Act of Georgia pursuant to recommendation of 30 April, 1784, and the subject at large." The Act is in No. 76, folio 306, and was passed February 13, 1786.

Mr. [Edward] Carrington, Mr. [Nathan] Dane and Mr. [William Samuel] Johnson, on "Proceedings of Assembly of Georgia 3. Aug., 1786, respecting Indians." The proceedings are in No. 73, folio 323. This committee was discharged October 6.

The "Letter of 27 June from Mr Adams cont\* communications of Chev de Pinto" was referred to the Secretary for Foreign Affairs to report and a report rendered February 3, 1787. See *ante*, September 26.

A "letter 29 Sept., 1786, Lawrance & Morris" was referred to the Board of Treasury to report and report rendered October 5, which was read in Congress October 9.

The committee of September 12, to whom was referred the report on the Consular Convention with France, was discharged.

*Committee Book No. 190.*

Also, according to indorsement, was read a letter of September 29, from Samuel Holden Parsons, resigning on account of the need to remain with his family in the present alarming state of affairs in Massachusetts. [Shays' rebellion.] It is in No. 78, XVIII, folio 615.

Also was read a letter from Genl. William Shepard to Secretary at War Knox, dated September 28, from Springfield, Massachusetts, reporting the situation [Shays' rebellion]. It is in No. 78, XXI, folio 475.



dollar for one hundred and sixty pounds of bark, furnished by him for the use of the sick prisoners on Hadrel's Point, in the years 1780 and 1781, and that the board of treasury take Order for paying the same.

The board of treasury having reported on two motions relative to a final adjustment and payment of the balance due to Oliver Pollock. On Motion of Mr. [Rufus] King, seconded by Mr. [Melancton] Smith

*Ordered,* That the said report with all the papers accompanying it be referred to the board of treasury and that the commissioners of the board of treasury examine and revise the accounts and claims of Oliver Pollock against the United States, that in their examination and revision they carefully attend to the claims of the United States against the said Oliver Pollock for monies goods and effects which came to his hands during his residence at New Orleans and the Havannah whether the same were received by him from the Spanish government in Europe or America from the sales of prizes or otherwise and report specially thereon.<sup>1</sup>

On the report of a committee, consisting of Mr. [Arthur] St. Clair, Mr. [Melancton] Smith and Mr. [John] Henry, to whom was referred a report of the commissioner of Army Accounts, on a petition of the executor of the late brigadier general William Thompson,

*Resolved,* That the Commissioner of Army Accounts adjust the ration account of the late brigadier general W. Thompson, charging him with whatever appears from the certificate of the commissioner for settling the Accounts of the commissary's department to have been by him received, and crediting him with what he was entitled to receive, and reduce the balance to money at the established rates, and

<sup>1</sup> This same proceeding is entered by Thomson in *Committee Book No. 190* as referred, on October 3, to the Board of Treasury.

carry the same to the debit or credit of his Account with the United States as the case may require.

That the commissioner of Army accounts pass to the credit of the late brigadier general W. Thompson, the sum of nineteen thousand five hundred and seventy-nine dollars and seventy-ninetieths of a dollar with which he stands charged, on account of and for pay of his regiment, and as money drawn for men returned from captivity, and that he pass also to the credit of the general, twenty-six dollars and seventy-ninetieths of a dollar being so much over paid, as appears by the disbursements of 5000 dollars, part of the above sum. That he also pass to his credit all such disbursements contained in an account exhibited by his executor, and extracted from memorandums found among his papers, which memorandums accompany the account, as shall, in his judgment, appear to be proper charges against the United States.

Oct. 3, 1786.

On a report of the Secretary to the United States for the department of foreign Affairs, to whom was referred back his report of the 4 of July, 1785, on the Consular Convention between France and the United States,

*Resolved*, That a copy of that report be transmitted to the minister plenipotentiary of the United States at Paris, in order that he may thereby become fully informed of the Objections to which the Convention is liable.

That a certified copy of the Act of Congress of the 25 day of January, 1782, authorizing and directing the hon<sup>ble</sup> Doctor Franklin to conclude a consular Convention, be also sent to him.

That a certified copy of the Scheme of such Convention, referred to in the above Act of Congress, be also sent to him.

That he be instructed to communicate the said act of Congress and the said scheme to his Most Christian Majesty, and to point out to him the instances in which the convention deviates from the said scheme.

That he be also instructed to propose to his Majesty, that the said Convention be so amended as perfectly to correspond with the scheme, in every part where a deviation from the same is not permitted by the said act. And further, that he represent to His Majesty the desire of Congress to make the said Convention *probationary*, by adding a clause for limiting its duration to eight or ten years. That he assures his Majesty of the determination of Congress to observe on All occasions the highest respect for Candour and good faith in all their proceedings; and that on receiving the Convention so amended, and with such a clause, they will immediately ratify it.

*Resolved*, That the honorable Thomas Jefferson, esq., the minister plenipotentiary of the United States at the Court of Versailles be and he is hereby authorised and directed, to conclude and sign, on the part of the United States, with the Minister of his most Christian Majesty having equal powers, a Convention for the regulation of their respective Consuls, conformably to the scheme abovementioned in every respect, except where deviations from it are permitted by the said Act of Congress of the 25 day of January, 1782, and with a clause limiting the duration of the said convention to any term of years not exceeding ten.

*Ordered*, That the secretary for foreign Affairs write the following letter to Mr. Jefferson:

SIR: I have the honor of transmitting to you herewith enclosed the following papers, viz.

No. 1. A copy of the Consular Convention signed by the french and American plenipotentiaries.

No. 2. A copy of the Act of Congress under which the American plenipotentiary signed the same.

No. 3. A copy of the scheme of a convention mentioned and referred to in the said Act.

No. 4. A copy of a report on the said Convention.

No. 5. A copy of an Act of Congress containing instructions and giving authorities to you on the subject of the said Convention.

These papers will possess you fully of the whole business. I am persuaded that it will appear to you as it does to Congress to be a delicate one, and to require delicate Management. The Original scheme of the Convention is far from being unexceptionable, but a former Congress having agreed to it, it would be improper now to recede, and therefore Congress are content to ratify a convention made conformable to that scheme and to their act of the 25th day of January, 1782; provided a clause limiting its duration be added. It will be proper therefore to press on the Court *only* such Objections to the Convention as arise from its departure from the scheme. On making an accurate comparison, such departure will appear manifest to his Majesty; and there is reason to expect from his candor, that he will readily consent to remove the Objections occasioned by it.

As it certainly is wise to try the merits of institutions entirely new, by actual experience, before Nations adopt them forever, the propriety of rendering this Convention probationary in the first instance is unquestionable. Congress cannot therefore presume that his Most Christian Majesty will object to a clause for limiting its duration. The design of this Convention being for

mutual and reciprocal benefit and convenience, it would be doing injustice to his Majesty to suppose that he would wish to provide for its existing longer than it should prove useful and satisfactory. If, after the experience of a few years, it should be found to answer the purposes intended by it, both parties will have sufficient inducements to renew it, either in its present form, or with such alterations and amendments as time, experience and other circumstances may indicate.

THE SCHEME OF A CONVENTION BETWEEN HIS MOST CHRISTIAN MAJESTY AND THE UNITED STATES OF NORTH AMERICA, FOR DEFINING AND REGULATING THE FUNCTIONS AND PRIVILEGES OF CONSULS, VICE CONSULS, AGENTS AND COMMISSARIES.

The Most Christian King and the United States of North America, having by the 29th article of the treaty of amity and commerce concluded between them, granted mutually the liberty of having each in the ports of the other consuls, vice consuls, agents and commissaries, and being willing in consequence thereof to determine and fix in a reciprocal and permanent manner the functions and prerogatives of the said consuls, vice consuls, agents and commissaries respectively, have agreed as follows:

ARTICLE I.

It shall be the duty of the consuls of his Most Christian Majesty to present their commissions, in the first instance, to the United States in Congress assembled, by whom an act shall be made recognising them as such. This act shall be delivered by the consuls to the supreme executive power of the state or states to which they may be sent. Two copies of the exequatur, that is, a publick



notification of the quality of the consuls, shall thereupon issue from the supreme executive power, without fees or perquisites of office; one to be retained by the consuls, the other to be published in one or more gazettes. This being done, the pre-eminences, authority and privileges stipulated in this convention, shall be allowed to them in all places, before all tribunals, and by all persons.

#### ARTICLE II.

The consuls of his Most Christian Majesty and of the United States may appoint any number of vice consuls within their respective departments. Upon the notification of their appointment, by the consuls, to the supreme executive power of the state to which they may be sent, the exequatur shall be applied for and delivered by the several states to them in the same manner as to the consuls, and thereupon all the preeminences, authority and privileges, stipulated in this convention in favour of vice consuls, shall be allowed in all places, before all tribunals, and by all persons.

#### ARTICLE III.

Consuls and vice consuls shall be subjects or citizens of the power appointing them, and interdicted from all traffic or commerce for their own or another's benefit.

#### ARTICLE IV.

Consuls may also appoint any number of agents within their departments, who may be of their own nation or not, at pleasure. They shall receive a commission from the consul appointing. They shall not assume any pre-eminence, authority or privilege herein granted to consuls or vice consuls, nor exact any fees or reward under any pretence whatever. But they

shall confine themselves wholly to the assisting of merchants, mariners and vessels, and giving information respecting them to the nearest consul or vice consul.

## ARTICLE V.

There may be attached to the consulate, at the will of the consuls within their departments, any number of persons. Neither the papers nor houses of consuls or vice consuls shall be searched. Consuls and vice consuls shall enjoy full and entire immunities for their persons, and be exempt from personal service, publick offices, finding quarters for soldiers, militia duty, watch, ward, guardianship, attorneyship, committeeship, and from all duties, taxes and imposts whatsoever, on moveable property; but shall be liable in respect of real and landed property in the same manner as the subjects or citizens of the country. The arms of his Most Christian Majesty, or of the United States, as the case may be, shall be placed on the outer door of their house; and being so placed, shall entitle the house to the exemptions aforesaid. But no asylum shall be thereby obtained for malefactors or criminals, who shall be delivered up immediately on demand. The same privileges and immunities as those granted in this fifth article to consuls and vice consuls, shall be granted to persons attached to the consulate and living under the same roof with the consuls or vice consuls; provided approbation shall be given of their number and appointment by the supreme executive power of the state to which they may belong.

## ARTICLE VI.

Consuls, and vice consuls in places where there are no consuls, may have a chapel in their houses for the

celebration of divine service, according to their religious profession. And his Most Christian Majesty and the United States shall cause particular care to be taken that no obstacle or hindrance be thrown in the way of the funeral obsequies or ceremonies observed towards the deceased of either nation.

ARTICLE VII.

In all cases in which it may be necessary that the consuls or vice consuls should perform any juridical or official act, the public bodies, or the persons in publick authority who shall require such act, shall either inform them thereof in writing, or send a military or civil officer with a verbal message respecting it: and the consuls or vice consuls shall, on their part, readily and bona fide do whatsoever may be demanded of them on these occasions.

ARTICLE VIII.

The consuls and vice consuls respectively may establish a chancery as a depository of the consular acts and deliberations, of effects left by the dead or saved from shipwreck, of testaments, obligations, contracts, and all other acts and things done by or between people of their nation. They may appoint the officers of the chancery, administer to them an oath of office, entrust to them the keeping of the seal, and the right of affixing the same to commissions, judgments, and other consular acts; and empower them to discharge the functions of notaries and registers.

ARTICLE IX.

The consuls and vice consuls respectively shall have the exclusive right of receiving in their chancery, or on board of vessels of their nation, all the declarations

and other acts which the captains, masters, seamen, passengers and merchants of their nation shall think proper to make or lodge therein; and last wills and testaments, and copies of any acts duly authenticated by the consuls or vice consuls, and under the seal of their consulate, shall receive full faith and credit in all courts of justice as well in France as in the United States. They shall also have the exclusive right of inventorying the effects of those of their nation who may die within their consulate, liquidating their accounts, and selling their moveable property. They shall call to their assistance in this business two merchants of their own nation, and of their own choice, and cause to be deposited in the chancery the effects and papers of the deceased of their own nation, without being interrupted therein by any officer, military, judicial, or of the police. But neither the consuls nor vice consuls shall deliver the effects of the deceased, or the produce of the sales, over to the heir or lawful successor, or his representative or attorney, until all the debts which the deceased shall have contracted by judgment, act or bill, shall be discharged: the signature or hand writing and genuineness thereof being first certified by two merchants of the same nation with the deceased, and of reputation. In all other cases payment of no debt shall be made, unless the creditor shall first enter into a bond, with one sufficient surety at least, who is a resident on the spot, for the return of all moneys unduly received, as well the principal as interests and costs. The surety shall not be bound beyond one year in time of peace, and two years in time of war. If, however, within those terms, the creditor shall call upon the lawful representative or successor to the property of the deceased, by a proper legal

process, and prove his title to the money so received, the surety shall stand discharged.

#### ARTICLE X.

The consuls and vice consuls respectively shall receive the declarations, consulats, or other consular acts of all captains and masters of their respective nations, for damages received at sea by leakage, or the throwing of goods overboard. And all consulats, or other consular acts made by them in foreign ports for accidents during the voyage, shall be lodged in the chancery aforesaid. If a subject of France and a citizen of the United States be jointly interested in the cargo, the damage shall be settled by the tribunals of the country, not by the consuls or vice consuls. But where subjects or citizens of their own nation are alone interested, the consul or vice consul shall then choose experienced persons of their respective nations to settle the same.

#### ARTICLE XI.

In every case of a wreck, the nearest consul or vice consul may exercise his discretion in saving the vessel wrecked, with her cargo and appurtenances, and in storing and securing what is saved; and may also take an inventory thereof. In this business no officers of the customs, of justice, of the police, or naval officer, shall interfere, but upon application made to them for their assistance, in which case they shall exert themselves in the most effectual manner. To prevent all clashing of jurisdictions in case of shipwreck, it is agreed, that where there shall be no consul or vice consul, or they may be more distant from the place of the accident than a judge of the country having authority in such cases, this judge shall immediately proceed to the exercise of his author-



ity according to law; but shall retire upon the coming of a consul or vice consul, into whose hands he shall put the whole business, rendering an account of his transactions, and receiving from the consul or vice consul reimbursement for all expenses. Whatsoever is saved shall be lodged in the nearest customhouse or naval office, or where there is no customhouse or naval office, in the nearest place of security, with an inventory prepared by the consul or vice consul, or in their absence by the judge of the country as aforesaid. Upon the order of the nearest consul or vice consul, or without any fees or perquisites for storage when lodged in public stores, the owner may reclaim the property so saved in person, or by attorney; and may either re-export the same free from all duties of exportation, or sell it in the country, if goods of such a quality be not prohibited. In this latter case of a sale of unprohibited goods, there shall be an abatement of the duties on importation, in proportion to the damages sustained by the shipwreck, to be determined by the account taken by the consul, vice consul or judge of the country, or any other competent officer at the time of the accident.

#### ARTICLE XII.

The consuls and vice consuls shall have on board of the vessels of their respective nations, all power and jurisdiction in matters of a civil nature. They shall have the power of causing the laws, regulations and ordinances of their respective nations concerning navigation to be observed on board of their said vessels. For this purpose they shall freely, and without any molestation or hindrance from any officer or other person, visit the said vessels. They may cause to be arrested and sequestered every vessel carrying the flag

of their respective nations, and even send them back to France, or the United States, as the case may be, as well as arrest any captain, master, seaman or passenger of their respective nations. They may cause to be arrested and detained in the country, sailors and deserters of their respective nations, or cause them to be transported therefrom. It shall be sufficient evidence of the sailors and deserters belonging to their respective nations, if their names appear in the register of the vessels, or the roll of their crew. Proof being thus made concerning sailors and deserters, all tribunals, judges and officers whatsoever, shall be interdicted and disabled from taking cognizance in any manner of complaints exhibited by such sailors or deserters. But they shall be delivered up to an order signed by the consuls or vice consuls, without being detained, engaged or withdrawn in any manner. That these powers vested in consuls and vice consuls may be completely executed, all persons in authority shall assist them; and upon a simple requisition made by the consuls or vice consuls in writing, shall cause to be kept in prison, at the disposal and cost of the consuls or vice consuls, the sailors and deserters so arrested, until an opportunity shall be presented of sending them out of the country.

#### ARTICLE XIII.

All offences committed in France by a citizen of the United States, against a subject of his Most Christian Majesty, shall be inquired into and punished according to the laws of France; and those committed in any one of the United States by a subject of his Most Christian Majesty, against a citizen of the United States, shall be inquired into and punished according to the laws of such state. But offences committed in France by a

citizen of the United States, against a citizen of the United States, or committed in any one of the United States, by a subject of his Most Christian Majesty, against a subject of his Most Christian Majesty, shall be subject to the jurisdiction of the consuls and vice consuls of France, or of the United States, as the case may be.

ARTICLE XIV.

All differences and disputes between the subjects of his Most Christian Majesty in the United States, or between the citizens of the United States in France, and all differences and disputes concerning commerce between the subjects of his Most Christian Majesty, one party being resident in France or elsewhere, and another in the United States, or between the citizens of the United States, one party being resident in the United States or elsewhere, and another in France, shall be heard, tried and decided on by the consuls or vice consuls of their respective nations, either by referring the same to arbitration, or by making a decree summarily, and without costs. No officer, civil or military, shall intermeddle or interpose herein in any respect. Appeals shall be carried to such courts as have been or may be appointed by his most christian majesty, and the United States, respectively. No disputes or differences, between a subject of his Most Christian Majesty and a citizen of the United States, shall be determined or taken up in any manner by the consuls or vice consuls, but shall be decided by the courts of the country in which the defendant shall be found.

## ARTICLE XV.

The advantages to commerce having caused the erection of certain tribunals in France, and particular forms for the speedy determination of commercial matters, the merchants of the United States shall enjoy the benefits of those establishments in France; and the United States in Congress assembled will recommend to the legislatures of the several states to establish equal advantages in the speedy decision of causes in favour of French merchants in matters of the same nature.

## ARTICLE XVI.

The subjects of his Most Christian Majesty and the citizens of the United States shall be exempt from all personal services in the place of their residence, either in France or the United States, as the case may be. Whensoever any person in France, or the United States, as the case may be, shall claim any privilege or exemption, as a subject of his Most Christian Majesty, or of the United States, before any judge, tribunal or officer whatsoever, a certificate of the consul or vice consul of the district, containing his name, surname, and the place of his residence, and the affidavit of the person claiming such privilege or exemption, that he is a subject of his Most Christian Majesty, or of the United States, as the case may be, shall be sufficient evidence thereof, unless the contrary shall manifestly appear.

## ARTICLE XVII.

Conformably to the 3d. and 4th. articles of the treaty of amity and commerce between his Most Christian Majesty and the United States, if any other nation, by

virtue of any convention whatsoever, shall receive greater indulgence, either in France or in the United States, with regard to consular powers, privileges or authority, the consuls, vice consuls, agents and commissaries of France, and of the United States, as the case may be, shall participate therein.

CONVENTION BETWEEN HIS MOST CHRISTIAN MAJESTY  
AND THE THIRTEEN UNITED STATES OF NORTH  
AMERICA, FOR THE PURPOSE OF DETERMINING AND  
FIXING THE FUNCTIONS AND PREROGATIVES OF THEIR  
RESPECTIVE CONSULS, VICE CONSULS, AGENTS AND  
COMMISSARIES.

His Majesty the Most Christian king, and the Thirteen United States of North America, having by the 29th article of the treaty of amity and commerce concluded between them, mutually granted the liberty of having in their respective states and ports, consuls, vice consuls, agents and commissaries, and being willing in consequence thereof, to determine and fix in a reciprocal and permanent manner the functions and prerogatives of the said consuls, vice consuls, agents and commissaries, his Most Christian Majesty has nominated the Sieur Charles Gravier, count of Vergennes, baron of Welferding, &c. counsellor of the King in all his councils, commander of his orders, head of the royal council of finances, counsellor of the state of the sword, minister and secretary of state, and of his commands and finances; and the United States, the Sieur Benjamin Franklin, their minister plenipotentiary to his Most Christian Majesty; who, after having communicated to each other their respective full powers, agreed upon what follows:



## ARTICLE I.

The consuls and vice consuls nominated by his Most Christian Majesty and the United States, shall be bound to present their commissions on their arrival in the respective states, according to the form which shall be there established. There shall be delivered to them, without any charges, the exequatur necessary for the exercise of their functions; and on the exhibition they shall make of the said exequatur, the governours, commanders, heads of justice, public bodies, tribunals and other officers having authority in the ports and places of their consulates, shall cause them to enjoy as soon as possible, and without difficulty, the preeminences, authority and privileges reciprocally granted, without exacting from the said consuls and vice consuls any duty, under any pretext whatever.

## ARTICLE II.

The respective consuls shall have power to establish vice consuls in the different ports and places of their departments, where necessity shall require. There shall be delivered to them likewise the exequatur necessary to the exercise of their functions in the form pointed out by the preceding article; and on the exhibition which they shall make of the said exequatur, they shall be admitted and acknowledged in the terms and according to the powers, authority and privileges stipulated by the 1st, 4th, and 5th articles of the present convention.

## ARTICLE III.

The respective consuls and vice consuls may establish agents in the different ports and places of their departments, where necessity shall require. These agents may

be chosen among the merchants, either national or foreign, and furnished with a commission from one of the said consuls. It shall be their business, respectively, to render to their respective merchants, navigators, and vessels, all possible service, and to inform the nearest consul or vice consul of the wants of the said merchants, navigators and vessels, without the said agents otherwise participating in the immunities, rights and privileges attributed to the consuls or vice consuls, and without power to exact from the said merchants any duty or emolument whatever under any pretext whatsoever.

#### ARTICLE IV.

The consuls and vice consuls, the officers of the consulate, and in general all persons attached to the consular function, shall enjoy respectively a full and entire immunity for their person, their papers and their houses. The list of the said persons shall be approved and inspected by the executive power of the place of their residence.

They shall be exempt from all personal service and public offices, from soldiers' billets, militia *watchguard*, *guardianship and trusteeship*, as well as from all duties, taxes, impositions and charges whatsoever, except *the real estates* of which they may be proprietors, which shall be subject to the taxes imposed on the estates of all other individuals.

They shall place over the outward door of their house the arms of their sovereign, without that this mark of distinction shall give to the said house the right of asylum for any malefactor or criminal, so that in case it should happen that any malefactor or criminal takes refuge there, he shall be instantly delivered up on the first requisition and without difficulty.

## ARTICLE V.

Generally in all cases whatever, which concern the police or administration of justice, where it may be necessary to have a juridical declaration from the said consuls and vice consuls respectively, the governours, commandants, chief justice, public bodies, tribunals, or other officers whatever of their respective residence there, having authority, shall be bound to inform them of it, by writing to them, or sending to them a military or civil officer to let them know, either the object which is proposed, or the necessity there is for going to them to demand from them this declaration; and the said consuls and vice consuls shall be bound on their part to comply faithfully with what shall be desired of them on these occasions.

## ARTICLE VI.

The consuls and vice consuls respectively may establish a chancery, where shall be deposited the consular acts and deliberations, all effects left by deceased persons, or saved from shipwreck, as well as testaments, obligations, contracts, and in general all the acts and proceedings done between, or by persons of their nation.

They may in consequence appoint for the *business* of the said chancery capable persons, receive them, administer an oath to them, give to them the keeping of the seal, and the right of sealing commissions, judgments, and other acts of the consulate, as well as there to discharge the functions of notaries and registers.

## ARTICLE VII.

The consuls and vice consuls respectively shall have the exclusive right of receiving in their chancery, or on board of vessels, the declarations and all the other acts which the captains, masters, seamen, passengers and merchants of their nation would make there, even their testaments, and other dispositions of last will; and the copies of the said acts duly authenticated by the said consuls or vice consuls, and under the seal of their consulate, shall receive faith in law in all the tribunals of France and the United States.

They shall have also, and exclusively, the right to inventory, liquidate, and proceed to the sale of the moveable effects of the estates left by subjects of their nation, who shall die within the extent of their consulate. They shall proceed therein with the assistance of two merchants of their said nation, of their own choosing; and shall deposit in their chancery, the effects and papers of the said estates; and no officer, military or civil, or of the police of the country, shall trouble them or interfere therein, in any manner whatsoever: But the said consuls and vice consuls shall not deliver up the same and their product to the lawful heirs, or *their attorneys*, until they shall have discharged all the debts which the deceased shall have contracted in the country, by judgment, by acts, or by notes, the writing and signing of which shall be known and certified by two principal merchants of the nation of the said deceased; and in all other cases the payments of debts cannot be ordered but on the creditors giving sufficient and local security to repay the sums unduly received, principal, interest, and cost; which securities however shall remain duly discharged after a year in time of

peace, and two years in time of war, if the demand in discharge cannot be formed before these delays, against the heirs which shall present themselves.

ARTICLE VIII.

The respective consuls and vice consuls shall receive the declarations, "*consulats*" and other consular acts, from all captains and masters of their respective nations on account of average losses sustained at sea by leakage or throwing merchandise overboard; and these captains and masters shall leave in the chancery of the said consuls and vice consuls, the "*consulats*," and other consular acts which they may have had made in other ports on account of the accidents which may have happened to them on their voyage. If a subject of his Most Christian Majesty and a citizen of the United States are interested in the said cargo, the average shall be fixed by the tribunals of the country, and not by the consuls or vice consuls; and the tribunals shall admit the acts and declarations, if any should have been passed before the said consuls and vice consuls; but when only the subjects of their own nation, or foreigners, shall be interested, the respective consuls or vice consuls, and in case of their absence or distance, their agents furnished with their commission, shall officially nominate skilful persons of their said nation to regulate the damages and averages.

ARTICLE IX.

In case by storms or other accidents, French ships or vessels shall *run ashore* on the coasts of the United States, and the ships and vessels of the United States shall *run ashore* on the coasts of France, the consul or vice consul



nearest to the place of shipwreck shall do whatever he may judge proper, as well for the purpose of saving the said ship or vessel, its cargo and appurtenances, as for the storage and security of the effects and merchandise saved. He may take an inventory, without any officers military, of the customhouse, justices, or the police of the country interfering, otherwise than to facilitate to the consuls, vice consuls, captain and crew of the vessel shipwrecked or run ashore, all the assistance and favour which they shall ask, either for the celerity and security of the salvage and effects saved, or to prevent all disturbances.

To prevent even any kind of dispute and discussion in the said cases of shipwreck, it has been agreed, that where no consul or vice consul shall be found to attend to the salvage, or that the residence of the said consul or vice consul (he not being at the place of shipwreck) shall be further distant from the said place than that of the competent territorial judge, the latter shall immediately there proceed therein with all the celerity, safety and precautions prescribed by the respective laws; but the said territorial judge shall retire on the coming of the consul or vice consul, and shall resign to him the procedures by him done, the expenses of which the consul or vice consul shall cause to be reimbursed to him.

The merchandize and effects saved shall be deposited in the customhouse or other nearest place of safety, with the inventory of them, which shall be made by the consul or vice consul, or, in their absence, by the judge, who shall have had cognizance thereof; and the said merchandises and effects shall be afterwards delivered, after levying therefrom the costs, and without form of process to the proprietors, who, being furnished with a *replevy* from the nearest consul or vice consul, shall reclaim

them by themselves, or by their attorneys, either for the purpose of re-exporting the merchandises, and in that case they shall pay no kind of duties of exportation, or for the purpose of selling them in the country, if they are not prohibited; and in this latter case, the said merchandises being averaged, there shall be granted them an abatement of the entrance duties proportioned to the damage sustained, which shall be ascertained by *the verbal process* formed at the time of the shipwreck, or of the vessels running ashore.

ARTICLE X.

The consuls and vice consuls shall have on board of the vessels of their respective nations, full power and jurisdiction in matters civil. They shall cause to be executed the respective laws, ordinances and rules concerning navigation on board the said vessels; and for this purpose they shall go there without being interrupted by any officer or other person whatsoever.

They may cause to be *arrested* every vessel carrying the flag of their respective nations; they may sequester them, and even send them back respectively, from the United States to France, or from France to the United States; they may cause to be arrested, without difficulty, every captain, master, sailor or passenger of their said respective nations.

They may cause to be arrested, or detained in the country, the sailors and deserters of their respective nations, or send them back, or transport them out of the country.

It shall be a sufficient proof that the sailors and deserters belong to one of the respective nations, that their names be written in the ship's register, or inserted in the roll of the crew.

One and the other of these proofs concerning sailors and deserters being thus given, no tribunals, judges and officers whatsoever, shall in any manner whatever take cognizance of the complaints which the said sailors and deserters may make, but they shall on the contrary be delivered up on an order signed by the consul or vice consul, without its being in any ones power in any manner to detain, engage or withdraw them. And to attain to the complete execution of the arrangements contained in this article, all persons having authority shall be bound to assist the said consuls or vice consuls, and on a simple requisition signed by them, they shall cause to be detained and guarded in prison at the disposal and expense of the said consuls and vice consuls, the said sailors and deserters until they shall have an opportunity to send them out of the country.

ARTICLE XI.

In cases where the respective subjects shall have committed any crime, they shall be amenable to the judges of the country.

ARTICLE XII.

All differences and suits between the subjects of his Most Christian Majesty settled in the United States, or between the citizens and subjects of the United States settled in France, and all differences and suits concerning commerce, between the subjects of his Most Christian Majesty and one of the parties residing in France or elsewhere, and the other in the United States, or between the citizens and subjects of the United States, one of the parties residing in the United States or elsewhere, and the other in France, shall be determined by the

respective consuls, either by a reference to arbitration, or by a summary judgment, and without costs.

No officer civil or military, shall interfere or take any part whatever in the affair. Appeals shall be carried before the tribunals of France or the United States, to whom it may appertain to take cognizance thereof. The consuls or vice consuls shall not take cognizance of disputes or differences, which shall arise betwixt a subject of his Most Christian Majesty and a citizen of the United States, but the said disputes shall be brought before the tribunals to which the defendant shall be amenable.

#### ARTICLE XIII.

The general utility of commerce having caused to be established in France tribunals and particular forms to accelerate the decision of commercial affairs, the merchants of the United States shall enjoy the benefit of these establishments in France; and the Congress of the United States shall recommend to the legislatures of the different states to provide equivalent advantages in favour of the French merchants, for the prompt despatch and decision of affairs of the same nature.

#### ARTICLE XIV.

The subjects of his Most Christian Majesty and those of the United States, who shall prove that they belong to the body of their respective nations by the certificate of the consul or vice consul of the district, mentioning their names, surnames and place of their settlement, as inscribed in the registers of the consulate, shall not lose, for any cause whatever, in the respective domains and states, the quality of subjects of the country of which they originally were, conformably to the eleventh article of the treaty of amity and commerce, of the 6th

February, 1778, of which the present article shall serve as an intrepertation in case of necessity; and the said subjects respectively shall enjoy in consequence exemption from all personal service in the place of their settlement.

## ARTICLE XV.

If any other nation acquires, by virtue of any convention whatever, either in France or the United States, a treatment more favourable with respect to the consular pre-eminences, powers, authority and privileges, the consuls, vice consuls and agents of his most christian majesty, or the United States reciprocally, shall participate therein, agreeable to the terms stipulated by the second, third and fourth articles of the treaty of amity and commerce, concluded between his Most Christian Majesty and the United States.

## ARTICLE XVI.

The ratification of the present convention shall be given in proper form, and exchanged on both sides, within the space of six months, or sooner if possible.

In faith whereof, we the underwritten ministers plenipotentiary of his Most Christian Majesty and the United States of North America, have signed the present convention, and have thereto affixed the seal of our arms. Done at Versailles, the 29th July, one thousand seven hundred and eighty-four.

[L. s.]           (Signed)       GRAVIER DE VERGENNES,  
[L. s.]                               B. FRANKLIN.

Faithfully translated from the original, by JOHN PINTARD.<sup>1</sup>

<sup>1</sup> This proceeding is entered by Thomson in *Secret Journal, Foreign*, No. 5; a copy, signed by him, is in No. 6. The text of the Scheme is from the printed copy, a pamphlet of 11 folio pages, which Thomson has pasted into the *Secret*



COMMISSIONERS OFFICE FOR COMY. DEPT.,  
*New York, Sept. 30th., 1786.*

The Commissioner for settling the account of the Commissary Dept., to whom was referred the Memorial of Jacob Cuyler Esq<sup>r</sup> late D Comy Genl of Purchases, praying to be relieved from a demand brought against him by David Reynolds late Ass<sup>t</sup> Commissary of purchases for One hundred and fourteen head of Cattle said to have been delivered by said Reynolds for the use of the Army and not charged in his accounts against the United States, begs leave to Report:

That in the statement of Mr. Cuyler's accounts rendered to your Commissioner, the whole of the purchases made by himself and his Assistants were blended into one general account, therefore the delivery of Cattle by Mr. Reynolds cannot be compared with his particular account of purchases. That the whole number of Cattle delivered by Mr. Cuyler and his Assistants does not appear to exceed the number charged in their accounts of purchases. This cannot however be accurately determined as several hundred head were killed and delivered in Beef by weight and no account having been kept of the number, it can only be estimated by the quantity of Beef &c. delivered, which is a very uncertain mode of determining it.

That it appears Mr. Reynolds did produce acco<sup>ts</sup> to Mr. Cuyler for the purchase of Ninety-five head of Cattle *after* the date of the Certificate given him by Mr. Cuyler, which Cattle appear to have been purchased *before* the date of said Certificate, but Mr. Reynolds having no money to pay for them, had not obtained the Bills and voucher for the purchase and could not charge them in the account rendered at that time; but receipts for the delivery of them were produced which occasioned them to overrun. The vouchers for the purchase were afterwards produced by Mr. Reynolds and admitted to the Credit of Mr. Cuyler in the settlement of his accounts with

*Journal.* Following it, Thomson has pasted a printed copy of the report of the Secretary for Foreign Affairs of July 4, 1785, comparing the Scheme and the Convention itself. This was read in Congress July 6, 1785, and is there printed in this edition of the Journals. *Committee Book No. 189* states that this report was committed on October 3.

OCTOBER 3: Also, according to indorsement, was read a letter of September 13, from Thomas Hutchins, from Ohio, reporting the progress of the survey of the Western Territory and enclosing a report from Jacob Stringer on the temper and conduct of the Indians. Hutchins' letter is in No. 60, folio 257, and Stringer's is on folio 253.

the United States. It is therefore evident that Ninety-five head of the Cattle mentioned in the Certificate have been paid for by the public; but I cannot tell in what manner Mr. Cuyler settled with Reynolds. This circumstance was not recollected either by Mr. Cuyler or your Commissioner when Mr. Reynolds produced his Certificate.

The remaining twenty-two head, *possibly* may not be charged to the public; but your Commissioner can hardly suppose Mr. Reynolds would have been so remiss in his duty as a public Officer, and so very inattentive to his own Interest, as to purchase Cattle and pay for them without taking any receipt, or knowing from whom they came; he therefore thinks it more probable they were stray Cattle taken up by him (of which a considerable number were allowed in the settlement of Mr. Cuylers deliveries) or Cattle purchased by other Commissaries which went through his hands, and is of opinion that no payment ought to be made for them unless he produces vouchers for the purchase.

All which is Humbly submitted.

JON<sup>h</sup> BURRALL.<sup>1</sup>

WEDNESDAY, OCTOBER 4, 1786.

Congress assembled. Present as before.

Mr. S. H. Parsons, having, in a letter of the 29th September, stated sundry circumstances, and informed Congress, that under these circumstances, the duties he owes to his family forbid his absenting himself from them a time sufficient to discharge the duties of his Commission in Virginia, and therefore prayed Congress to accept his resignation.

On motion of Mr. [Edward] Carrington, seconded by Mr. [Henry] Lee,

*Resolved*, That the resignation of Mr. S. H. Parsons be accepted.

*Resolved*, That to-morrow be assigned for the election of a commissioner, in pursuance of the resolution of the 13th April, 1785, in the room of Mr. Parsons resigned.

<sup>1</sup> This report is in the *Papers of the Continental Congress*, No. 31, folio 353. According to indorsement, it was read October 3 and agreed to September 15, 1788.

Congress resumed the Consideration of the Ordinance for the government of the western territory, and

A motion was made by Mr. [Nathan] Dane, seconded by Mr. [Melancton] Smith, to amend the Ordinance by adding:

Whereas Congress, on the 7 of July last, recommended it to the legislature of the state of Virginia, (here insert the recommendation). And whereas, the said state not having been in session, hath not yet revised her said Act, and from this circumstance, it remains uncertain what number of states may hereafter be formed in the said territory, and consequently of what extent such state must be; and whereas there is reason to expect that the said state will comply with the said recommendation, whereby Congress will be enabled with more propriety to determine at what periods, the new states, that may be formed in the said territory, shall, on principles of equality, be admitted into the Confederacy. Be it Ordained, that when the said State shall finally determine, relative to the said recommendation, Congress will ascertain and fix the number of free inhabitants, which shall entitle each district or new state, that may be formed in the said territory, to an admission into the Confederacy, on an equal footing with the original States.<sup>1</sup>

On the question to agree to this amendment, the yeas and nays being required by Mr. [Edward] Carrington,

<i>Massachusetts,</i>			<i>Pennsylvania,</i>	
Mr. Gorham,	no	}ay	Mr. Pettit,	ay
King,	ay		St. Clair,	ay
Dane.	ay			
<i>Rhode Island,</i>			<i>Maryland,</i>	
Mr. Miller,	ay	*	Mr. Henry,	no
<i>Connecticut,</i>			<i>Virginia,</i>	
Mr. Johnson,	ay	}div.	Mr. Carrington,	no
Sturges,	no			Lee,
<i>New York,</i>			<i>North Carolina,</i>	
Mr. Smith,	ay	*	Mr. Bloodworth,	no
<i>New Jersey,</i>			White,	no
Mr. Cadwallader,	ay	}ay		
Hornblower,	ay			

<sup>1</sup> This motion, in the writing of Nathan Dane, is in the *Papers of the Continental Congress*, No. 30, folio 113.

<i>South Carolina,</i>			<i>Georgia,</i>		
Mr. Bull,	no	}	Mr. Houstoun,	no	}div.
Pinckney,	no		Few,	ay	
Huger,	no				
Parker,	no				

So the question was lost.

The Committee consisting of Mr. [Rufus] King, Mr. [Melancton] Smith, and Mr. [Nathan] Dane to whom was referred the report of the board of Treasury on the memorial of Col<sup>o</sup> William Fennie, report:

That in their opinion the sums of money advanced by the said Fennie in the defence of a law suit brought against him for his engagements in his public character and expended by him in the settlement of certain Accounts ought to be reimbursed to him and that his other claims for immediate payment of further sums and to pay and Depreciation mentioned in his memorial cannot be complied with.

Whereupon they submit the following Resolve.<sup>1</sup>

HARTFORD, *October 1<sup>st</sup>, 1786.*

SIR: I arrived here this morning and find by authentic accounts that the malcontents to the government of Massachusetts who had assembled at Springfield, had dispersed to their respective homes.

I am diffident of transmitting any details arising from a variety of reports: But it appears to be tolerably well established, that Major General Sheppard had under his orders 900 men well affected to Government, assisted by a respectable number of officers of the late continental army. The disaffected amounted to about 1,200, three hundred of whom were armed with musquets and bayonets. Six hundred armed with common militia musquets, and three hundred with sticks. The greater part of the latter were from the counties of Berkshire and Worcester.

The supreme Court opened on Wednesday and adjourned on Thursday without day, which being the object of the malcontents they dispersed on that day or friday.

<sup>1</sup> This report, in the writing of Nathan Dane, is in the *Papers of the Continental Congress*, No. 19, II, folio 275. According to indorsement it was read October 4; the submitted resolve was passed October 5, where it is spread *verbatim* on the Journal.

It is said Gen<sup>l</sup> Sheppard has secured the magazine by a guard. I shall be at Springfield early tomorrow morning and shall write your Excellency particularly from that place respecting the measures which shall appear to be necessary for the future protection of the stores.

I have the honor to be etc.

H. KNOX.<sup>1</sup>

His Excellency,  
The President of Congress.

OFFICE OF SECRETARY OF CONGRESS,

*Oct. 4, 1786.*

On the memorial of R. Lloyd, stating that in consequence of the resolve of Congress Nov<sup>r</sup> 3, 1783, the certificates for the arrears of pay &c. due to the Officers and soldiers of Hazen's reg<sup>t</sup> amounting to 226,544<sup>5</sup>/<sub>10</sub> dollars were delivered to him as agent for the reg<sup>t</sup>, that he has been employed in distributing the said certificates and settling his acco<sup>ts</sup> with the com<sup>t</sup> of Army Acco<sup>ts</sup> from the time of his appointm<sup>t</sup> to the Agency until last winter that though he might have charged and rec<sup>d</sup> a commission on the delivery or retained such certificates as remained undelivered at the last settlement with the Com<sup>t</sup> until he was paid for his services yet his reliance on Congress for compensation prevented his doing either. That though the resolve of 6 Sept. allows for his trouble 1 per cent on the amount of the Certificates delivered, yet from the terms in which it is couched he can only obtain a certificate, the intrinsic value of which he states would be to him no more than £93 6 8 which he conceives inadequate, and therefore prays Congress to reconsider his case.

The Secretary of Congress reports: That the memorial of Richard Lloyd be referred to the board of treasury, ———  
Agreed Oct. 5. amended, to report.<sup>2</sup>

<sup>1</sup> This letter is in the *Papers of the Continental Congress*, No. 150, I, folio 583. According to indorsement it was read October 4. It inclosed a letter from Brig. Gen. William Shepard, dated September 29, from Springfield. It is on folio 579.

Also was read, according to indorsement, a letter of September 30 from Egbert Benson accepting the appointment of judge in the boundary dispute between South Carolina and Georgia. It is in No. 78, IV, folio 525.

<sup>2</sup> This report is in *Reports of the Secretary of Congress*, No. 180.



## THURSDAY, OCTOBER 5, 1786.

Congress assembled. Present as before.

Congress proceeded to the election of a Commissioner, in pursuance of the resolution of the 13 April, 1785, in the room of Mr. Parsons, who has resigned; and the ballots being taken, Mr. Edward Fox was elected, having been previously nominated by Mr. [Charles] Petit.

Congress resumed the Consideration of a report of a committee, consisting of Mr. [Melancton] Smith, Mr. [Pierse] Long, Mr. [William Samuel] Johnson, Mr. [John] Bull, Mr. [Edward] Carrington, Mr. [John] Henry and Mr. [John] Kean, to whom was referred a motion of Mr. [Rufus] King, together with a motion of the delegates of Virginia, on the subject of the settlement of the accounts of individual States with the United States, which report, being in the nature of an ordinance, was debated by paragraphs; and the first and second paragraphs being amended to read as follows:

That the authority of the Commissioners appointed to settle the Accounts between the United States and individual States, shall, from and after the first day of January next, terminate and cease.

That a board to consist of three members, any two of whom shall be a quorum, be appointed, who shall be, and hereby are invested with all the powers and authorities of the aforesaid commissioners, and shall sit where Congress may, from time to time, direct.

The third paragraph was then read as reported, viz.

That in cases where no written vouchers are or can be produced, and the said board shall receive satisfactory evidence that such vouchers have been destroyed or unavoidably lost, or that, from the circumstances of the case they have never been obtained, they may receive such other evidence as shall be satisfactory to them, but the best that the nature and circumstances of the case will admit of; and at their discretion may examine, on oath, any person or persons they may think fit respecting the claims which shall be exhibited for settlement, whether accompanied with written vouchers or not, when the evidence is not sufficient to satisfy them of the truth or justice thereof.

A motion was made by Mr. [Melancton] Smith, seconded by Mr. [Josiah] Hornblower, to amend by inserting after "where," in the first line, the words following, viz. "claims are founded on existing resolutions of Congress, but," so that it read, "That in cases where claims are founded on existing resolutions of Congress, but no written vouchers, &c." On the question to agree to this Amendment, the yeas and nays being required by Mr. [Melancton] Smith,

<i>Massachusetts,</i>			<i>Maryland,</i>	
Mr. Gorham,	ay	}ay	Mr. Henry,	ay
Dane,	ay		<i>Virginia,</i>	
<i>Rhode Island,</i>			Mr. Monroe,	no
Mr. Miller,	ay	}*	Carrington,	no
<i>Connecticut,</i>				Lee,
Mr. Johnson,	ay	}ay	<i>North Carolina,</i>	
Sturges,	ay		Mr. Bloodworth,	no
<i>New York,</i>			White,	no
Mr. Haring,	ay	}ay	<i>South Carolina,</i>	
Smith,	ay		Mr. Pinckney,	no
<i>New Jersey,</i>			Huger,	no
Mr. Cadwallader,	ay	}ay	Parker,	no
Symmes,	ay		<i>Georgia,</i>	
Hornblower,	ay		Mr. Houstoun,	no
<i>Pennsylvania,</i>			Few,	no
Mr. Pettit,	ay	}ay		
St. Clair,	ay			

So the question was lost.

On motion, the whole paragraph was struck out.

A motion was then made by the delegates of Virginia, in lieu of the paragraph struck out, to insert another, which being amended to read as follows:

That in cases where no written vouchers can be produced for claims, founded upon existing resolutions of Congress, and the said board shall receive satisfactory evidence that such vouchers have been destroyed or unavoidably lost, or that, from the circumstances of the case, they have never been obtained, they may receive such

other evidence as shall be satisfactory to them, provided the same be the best that the nature and circumstances of the case will admit of; and at their discretion may examine, on oath, any person or persons they may think fit respecting the claims which shall be exhibited for settlement, whether accompanied with written vouchers or not: And whenever it shall become necessary to obtain the testimony of any person or persons touching a claim, who may not reside or be present at the place where the board shall be sitting, it shall be in the power of the said board, and they are hereby directed to cause such testimony to be taken by way of deposition, in the form and manner prescribed by the laws and usages of the state wherein such person or persons may respectively reside.

A division was called for; and on the question to agree to the first clause, viz. That in cases where, &c. to "with written vouchers or not," inclusive, the yeas and nays being required by Mr. [Edward] Carrington,

<i>Massachusetts,</i>			<i>Maryland,</i>	
Mr. Gorham,	ay	}ay	Mr. Henry,	ay)*
Dane,	ay		<i>Virginia,</i>	
<i>Connecticut,</i>			Mr. Monroe,	ay
Mr. Johnson,	ay	}ay	Carrington,	ay
Sturges,	ay		Lee,	ay
<i>New York,</i>			<i>North Carolina,</i>	
Mr. Haring,	ay	}ay	Mr. Bloodworth,	ay
Smith,	ay		White,	ay
<i>New Jersey,</i>			<i>South Carolina,</i>	
Mr. Cadwallader,	ay	}ay	Mr. Pinckney,	ay
Symmes,	ay		Huger,	ay
Hornblower,	ay		<i>Georgia,</i>	
<i>Pennsylvania,</i>			Mr. Houstoun,	ay
Mr. Pettit,	ay	}ay	Few,	ay
St. Clair,	ay			

So it was resolved in the affirmative.

A motion was then made by Mr. [Charles] Pinckney, seconded by Mr. [Arthur] St. Clair, that the report and remainder of the motion before the house, together with a motion which he read in his place, be referred to the board

of treasury with orders to report thereon will all convenient despatch. The motion of Mr. Pinckney being as follows:

<sup>1</sup> Whereas it is expedient some just and equal principles should be established for liquidating and settling the accounts of individual States with the United States,

*Resolved*, That from and after the            day of            the authority of the Commissioners appointed to settle the accounts between the United States and individual States, cease and determine. That a board to consist of            Members, any            of whom to be a quorum, be appointed, who shall be, and hereby are invested with all the powers and authorities of the said Commissioners, and who shall sit in such places as Congress may, from time to time, direct, as most convenient to the State or States, whose claims they are to settle. That the several States, having claims against the United States, cause the same to be laid before the said Board within            years from the date of these resolutions. That whenever a State shall bring forward a Claim against the United States for services done, supplies furnished, or advances made for their use, the said Board are hereby authorised and instructed to receive and examine the same, whether sanctioned by existing resolutions of Congress or otherwise: That in the investigation of the said demand, it shall be the duty of the Board to require the best evidence the nature and circumstance of the Claim will admit; that in cases where no written vouchers are or can be produced, and the said Board shall receive satisfactory evidence such vouchers have been destroyed or unavoidably lost, or were, from the circumstances of the case, never obtained, they may receive such other evidence in support of charges as they may think just and proper; and if, upon a due and fair examination, it shall appear to them, that the said services, supplies or advances, were really and truly done, furnished and made, under the authority of any of the Officers, civil or military, of the United States, for the use of the said States, and for which they ought to be accountable, the said board are hereby authorised, empowered and instructed, to admit the same as a charge against the United States, to such extent and upon such principles as shall appear to them just and reasonable. That where supplies have been furnished by individuals for the use of the Army of the United States, and have been assumed by any

<sup>1</sup> At this point Benjamin Bankson begins the entry.

State, the said board are hereby authorised and instructed to liquidate the said claims upon the same principles as tho' they had remained in the hands of individuals, and admit them as a charge against the United States: Provided that nothing contained in this resolution shall be taken or construed to prejudice or affect the resolutions of February 25<sup>th</sup>, or June 1<sup>st</sup>, 1780, or any other resolution allowing a State payment for supplies furnished the United States. That in all cases where doubts may arise with the said board, as to the justice or propriety of the claims of a State, they shall report the same to Congress, as soon as may be, with their examination and opinion thereon, in order that such decision may be had, as shall accord with justice and equity. That each of the Members of the said Board, shall, previous to his entering on the duties of his appointment, take and subscribe the following Oath, before I, A. B. appointed to the Office of a Member of the Board for settling the accounts between the United States and individual States, do swear (or affirm) that I will well and faithfully serve the United States, in the said office, and that in all things belonging thereto, I will faithfully, justly and truly, according to the best of my skill and judgment, do equal and impartial justice, without fraud, favour or affection. That the Commission of the said Board continue in force years, and no longer.<sup>1</sup>

<sup>2</sup> On the question to agree to the Motion for a reference, the yeas and nays being required by Mr. [Charles] Pinckney,

<sup>1</sup> This motion, in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 36, IV, folio 57.

<sup>2</sup> At this point Charles Thomson resumes the entry.

OCTOBER 5: "Memorial of Richard Lloyd" was referred to the Board of Treasury to report.

*Committee Book No. 190.*

Also, according to indorsement, was read a letter of October 2 from Thomas McKean, accepting the appointment of judge in the boundary dispute between South Carolina and Georgia.



<i>Massachusetts,</i>			<i>Maryland,</i>	
Mr. Gorham,	ay	}div.	Mr. Henry,	ay
Dane,	no		<i>Virginia,</i>	
<i>Connecticut,</i>			Mr. Monroe,	ay
Mr. Johnson,	no	}no	Carrington,	ay
Sturges,	no		Lee,	ay
<i>New York,</i>			<i>North Carolina,</i>	
Mr. Haring,	no	}no	Mr. Bloodworth,	ay
Smith,	no		White,	ay
<i>New Jersey,</i>			<i>South Carolina,</i>	
Mr. Cadwallader,	ay	}ay	Mr. Pinckney,	ay
Symmes,	ay		Huger,	ay
Hornblower,	ay		<i>Georgia,</i>	
<i>Pennsylvania,</i>			Mr. Houstoun,	ay
Mr. Pettit,	no	}div.	Few,	ay
St. Clair,	ay			

So the question was lost.

The further consideration of the report being postponed till to Morrow,

On the report of a committee, consisting of Mr. [Rufus] King, Mr. [Melancton] Smith and Mr. [Nathan] Dane, to whom was referred a report of the board of treasury on a memorial of Colonel W. Finnie,

*Resolved,* That there be paid to colonel William Finnie, by the board of treasury, two hundred and eighty-five dollars and fifty-one ninetieths of a dollar in part of a certificate heretofore issued to him for 2,634<sup>19</sup>/<sub>100</sub> dollars. That the said certificate be delivered to the comptroller of the treasury and cancelled, and the that Comptroller issue to the said William Finnie another certificate for the balance.

FRIDAY, OCTOBER 6, 1786.

Congress assembled. Present, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina and Georgia; and from Rhode Island, Mr. [Nathan] Miller.

On motion of Mr. [Charles] Pinckney, seconded by Mr. [Arthur] St. Clair,

*Resolved*, That Congress now proceed to the election of a Superintendent for the Southern district, agreeably to the Ordinance for the regulation of Indian Affairs, and that he be directed immediately to proceed to the states of North Carolina, South Carolina and Georgia, for the purposes mentioned in the said Ordinance.<sup>1</sup>

Congress proceeded to an election; and, the ballots being taken,

Mr. James White of North Carolina, was appointed, having been previously nominated by Mr. [Arthur] St. Clair.

On motion of Mr. [Charles] Pinckney, seconded by Mr. [Arthur] St. Clair,

*Resolved*, That the oaths required of the Superintendents of Indian Affairs, be taken before any one of the Judges of the supreme court in any of the United States.<sup>2</sup>

Congress proceeded in the Consideration of the report of the Committee, on the motions touching the settlement of Accounts between the United States and individual States, and having gone through the same, and made sundry amendments,

*Ordered*, That it be transcribed in form of an Ordinance; and that Monday be assigned for the second reading.

An Address from the United States in Congress Assembled to the Legislatures of the several States:

\* \* \* \* \*

It is with the most painful anxiety that they are compelled to declare, that, having been denied the means of satisfying the engage-

<sup>1</sup> This motion, in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 30, folio 301. Attached to it is the following, also in Pinckney's handwriting: "That ~~Tomorrow~~ Monday be assigned for the election of the said Superintendent of the northern district."

<sup>2</sup> This motion, in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 36, III, folio 313.

ments which they have constitutionally made for the common benefit of the Union it is now their duty solemnly to warn their constituents that the most fatal evils will speedily and inevitably flow from a breach of public faith and a violation of the principles of justice, which are the solid basis of the honor and prosperity of Nations.

The States were called upon the last year to pay into the general Treasury the sum of three millions of dollars, of which one million was to be discharged by Specie and two millions by discounts of interest on the domestic debt. The objects for which the monies proposed to be raised were to be appropriated, were then distinctly pointed out; By this it appears that the sum of eight hundred and forty thousand dollars were absolutely and indispensibly necessary to defray the charges of the Civil government and the interest of the foreign debt.

What have been the effects of this requisition? Notwithstanding the serious and interesting appeal of Congress to the justice and wisdom of the several States which soon followed it, and in which after stating the public receipts and expenditures for the four preceding years, it is proved that the receipts of the last fourteen months were not adequate to the bare maintenance of the federal government, on the most economical establishment, and in time of profound peace, only ~~eight~~ ten states out of the thirteen have passed acts apparently complying with it, and by such as have complied not more than the sum of 100,000 dollars, has been paid into the general Treasury to the present date in actual Specie.

In examining the proceedings of the different States in consequence of the Resolves of the 27<sup>th</sup> Sept. 1785, the following statement is the result:

In the Act of New Hampshire, the Specie directed to be raised is to be assessed on the polls and ratable estates within that State, agreeably to the last proportion of taxes, for the several Towns and places, but as it does not appear by this Act, at what rate the polls and real property are rated, or whether those funds are burthened with any other engagements it is impossible to form a judgement of what may be expected from the provision made. If the funds are the same as have been relied on for paying that State's quota of the requisition of the 27<sup>th</sup> and 28<sup>th</sup> of April, 1784, experience demonstrates that no dependance can be placed upon their efficacy.

By the Act of Massachusetts it appears that there is assessed on the different Counties of that State the sum of £300,439:1:3 Lawful

money, out of which the sum of £145,665, equal to 485,550 dollars (the Specie quota of that State) is to be paid into the general Treasury on or before the 1<sup>st</sup> of January, next.

From the whole sum there is to be deducted: For the support of Civil government, £25,784:1:3; for the payment of interest on their State debt, £29,000:0:0; for redeeming army Notes payable 1784, 1785, and 1786, £100,000:0:0; for replacing sums drawn out of the treasury for support of the members of Assembly, £1,101:18:0.

It does not appear by this Act that any preference in payment is to be given to the requisition of Congress and as more than one Moiety of the sum proposed to be raised, is for State purposes, in which the support of the government and the particular interests of their Citizens are concerned, it may be inferred that the first monies collected will be appropriated for the objects last mentioned; of course the Specie payments of the requisition will be procrastinated, and any deficiency in the general Tax, will fall on the sum which is appropriated for federal purposes. From Rhode Island no specie payments on the last requisition is to be expected, that State having set off, against this requisition, the balances due the contractors for ox teams in the service of the United States for the year 1781, notwithstanding the balance which remained due on the requisition for 1784; this together with the amount of their liquidated payments to Invalids, in pursuance of the Resolution of Congress of the 7th June, 1785, will very probably absorb the Specie sum of the requisition of the 27<sup>th</sup> September, 1785; nor can a further payment of the balance due on that of 1784, be calculated on, as a paper currency in that State is made receivable in all taxes whatever.

Connecticut having passed no Act in compliance with the last requisition nothing can be expected from her.

By the Act of New York, though the treasurer of the State is directed to pay into the general treasury the full proportion of her quota on the last requisition, at the periods therein specified, no funds appear by the said law, to be provided for effecting this object. By a law enacted in the last sessions of the Legislature of that State, a paper Currency is made receivable in all taxes whatever from the first of May last; from this circumstance little dependance can be placed in receiving in the course of the present year, her full Specie quota.

Jersey having passed no act upon the last requisition, nothing is to be expected from her.



Pennsylvania by an act of the 8<sup>th</sup> of March, 1786, directed their Treasurer to pay to the order of the United States, such a sum in specie, as together with the sums paid on account of the requisitions of the 27<sup>th</sup> and 28<sup>th</sup> of April, 1784, and 27<sup>th</sup> of September, 1785, would make the sum of 557,091 dollars in Specie and the further sum of 593,684 dollars in receipts on Certificates of interest; but it is to be observed, that the sum directed to be paid by discounts of interest is 86,657 dollars more than the State has a right to avail itself of on the requisition of the 4<sup>th</sup> of September, 1782, 27<sup>th</sup> of April, 1784, and 27<sup>th</sup> of September, 1785, and that the amount directed to be paid is short (by the above mentioned overplus in indents of interest) of the Actual sum of Specie required of that State, by the requisitions of the 27<sup>th</sup> and 28<sup>th</sup> of April, 1784, and 27<sup>th</sup> of Sep<sup>r</sup> 1785.

The State of Delaware has passed an Act in compliance with the last requisition which will probably be productive of her quota.

The State of Maryland did at their last sessions, pass an Act providing for the payment of 94,350 dollars in Specie being the proportion of Specie required of that State by the last requisition but it does not appear that any provision has been made for the payment of the indents of interest required by the said requisition.

Virginia passed an Act of the 21<sup>st</sup> of January last, in full compliance with the last requisition, but the revenue laws referred to in the said Act, do not shew what monies may be relied on from them.

From North Carolina nothing is to be expected on the last requisition no act having passed in pursuance of it.

In the State of South Carolina the last requisition is fully covered by the Credit she has obtained in the treasury, for supplies in 1782 and 1783.

The State of Georgia by an Act of the 13<sup>th</sup> of February last, directed their treasurer to pay into the General Treasury the quotas assigned to that State, by the resolves of the 4<sup>th</sup> Sept., 1782, 27<sup>th</sup> and 28<sup>th</sup> of April, 1784, and 27<sup>th</sup> of Sep<sup>r</sup>, 1785; but as the said act refers to a revenue law of which a Copy has not accompanied it, no certain Opinion can be formed how far the compliance may be operative, but as nothing has yet been paid on either of the aforesaid requisitions, little expectation can be entertained of payments under this Act, which seems to have created no new funds.

To the above statement nothing need be added to manifest the exhausted State of the federal Treasury, except that of the requisition



of the 27<sup>th</sup> and 28<sup>th</sup> of April, 1784, heavy balances are Still due as appears from the following statement thereof to the 30<sup>th</sup> of June last.

	Apportionment of 4 Millions	Amount paid to the 30 <sup>th</sup> June, 1786	Balance due the 30 <sup>th</sup> June, 1786
New Hampshire.....	186, 799.	7, 679. 8	179, 119. 82
Massachusetts.....	653, 798.	371, 118. 12	282, 679. 78
Rhode Island.....	108, 342.	75, 711. 20	32, 630. 70
Connecticut.....	373, 598.	157, 318. 12	216, 279. 78
New York.....	186, 799.	186, 799.	-----
New Jersey.....	242, 839. 45	139, 328. 70	103, 510. 65
Pennsylvania.....	560, 397.	560, 397.	-----
Delaware.....	56, 042. 45	29, 081. 39	26, 961. 6
Maryland.....	466, 998.	272, 525. 28	194, 472. 62
Virginia.....	653, 797.	550, 849. 25	102, 947. 65
North Carolina.....	311, 338. 45	-----	311, 338. 45
South Carolina.....	186, 799.	186, 799.	-----
Georgia.....	12, 452. 45	-----	12, 452. 45

Of the Requisition of the 4<sup>th</sup> of September 1782 considerable balances are also due, but as the States were permitted to apply their respective quotas, in the payment of interest due on the Loan Office Certificates and other liquidated debts of the United States, contracted therein and few of them have caused regular returns to be made, how far they have acted upon the said requisition, the balances cannot now be ascertained.

\* \* \* \* \*

SPRINGFIELD, 3<sup>d</sup> October, 1786.

SIR: I wrote your Excellency from Hartford on the 1st instant, and just gave the outlines of the proceedings at this place. General Sheppard wrote two letters to me which will be transmitted to Congress from the War Office. These letters will inform more fully of the state of affairs here.

<sup>1</sup> This report, in the writing of Henry Remsen, jr., and Roger Alden, is in the *Papers of the Continental Congress*, No. 24, folio 347. According to indorsement it was read October 6 and made the "Order of the day for Monday." This committee report is based upon the report of the Board of Treasury which was read in Congress August 31 and is there printed. The omitted opening paragraph is identical with the August 31 report, as is also the omitted last part of the above, with the excepting of two inconsequential verbal changes. Thomson's indorsement gives the committee as noted on September 7. See *ante*, August 31 and September 7.

The object of the discontented was to prevent the Supreme Court from sitting. This was in the event effected, although in a manner different from their intentions. The Court was opened on tuesday, and continued until thursday, when they adjourned without day, finding it impossible to proceed in business, surrounded with hostile parties: On the same day both bodies by agreement dispersed to their respective homes.

There were 900 men in support of government under Major General Sheppard of the militia, well armed. General Sheppard found himself constrained to take about four hundred arms, and one field piece from the federal magazine; all of which are returned, and will be well cleaned at the expense of this State.

The mal-contents were much more numerous, but not well armed. They were headed by a Captain Shays of the militia, and formerly in the continental army, but who resigned a considerable time before the conclusion of the war. They were embodied in a military manner, and exceedingly eager to be led to action, but the prudence of their leader prevented an attack on the Government troops. Had this event taken place it is probable from the goodness of the Governmental militia, and the excellency of their officers, that the mal-contents would have met with an utter defeat.

The horror of a civil war was a powerful consideration to restrain the Governmental party from commencing an attack, although confident of the superiority of their appointment and discipline. The disaffection to the government which exists in this county (Hampshire) and Berkshire, is risen to an alarming height, and will probably terminate most seriously. The granting of the supplementary funds to the United States appears to have been the immediate cause of its bursting forth in such a violent manner.

The stores of the United States in this place are critically circumstanced. I find that General Sheppard thought it most proper not to place a small guard over them, and a large one was out of his power after the mal-contents had dispersed. The stores must either be protected, or withdrawn. The first is most eligible on several accounts, and I shall immediately repair to Boston in order to concert measures with the governor for that purpose. If any decisive measures can be agreed on, I shall do myself the honor to communicate them to Congress, for their approbation.

I well know the situation of the federal treasury, and shall endeavour to prevent, as far as possible, any expenses to be incurred, which may occasion any immediate draughts thereon. For any further particulars I take the liberty of referring your Excellency to the bearer Mr. Stagg a gentleman employed in the war office.

I have the honor to be, etc.

H. KNOX.<sup>1</sup>

His Excellency,  
The President of Congress.

MONDAY, OCTOBER 9, 1786.

Congress assembled. Present, Massachusetts, Connecticut, New York, New Jersey, Maryland, Virginia, South Carolina and Georgia; and from Rhode Island, Mr. [Nathan] Miller, and from Pennsylvania, Mr. [Charles] Pettit.

When the conduct of those unto whom the people within their respective States have committed their powers, hath endangered their welfare, either from not enacting such laws as are necessary and proper to the well being of the federal government or when enacted from not having them executed with due energy and promptitude, it becomes our business as guardians of the Confederacy to awaken them to a sense of their duty, to urge the adoption of such measures as may avert the threatened Calamity.

Impressed with a sense of this high Obligation and an anxious and affectionate concern for the interest, honor and safety of the Union, We now call your most serious attention to the situation of the federal

<sup>1</sup> This letter is in the *Papers of the Continental Congress*, No. 150, I, 587. According to indorsement it was read October 6.

OCTOBER 6: The petition of James Smith was read praying for interest and expenses. It was referred to the Board of Treasury to report and a report rendered October 11. The petition, dated October 5, is in No. 42, VII, folio 263.

Also was read the petition of Abraham Whipple, for reimbursement for sundry expenditures and losses. It was referred to the Commissioner of Marine Accounts to report, which he did, October 10.

Also, the Board of Treasury's report on "Their report of the sums advanced to the delegates of the several States" was referred back to the said Board to report.

Also, the committee of October 2 on the proceedings of the Georgia Assembly on Indian Affairs was discharged.

finances, deranged from a non performance on your part of that duty which your Constitutions and the Confederation imposes upon you.

We shall not carry you back to those requisitions which were made during the first part of the war, as the distresses of some of the States may serve as an excuse for their Non compliance; but confine ourselves to those which have been made since the peace those with which they were immediately connected.

We shall adopt the requisition of 1781, as a beginning, because this was the first made upon you wholly for Specie.

1781, October 30<sup>th</sup>: You were called upon to furnish the Federal Treasury for the service of the year 1782 and prosecuting the war, 8,000,000 Dollars.

1782, October 16<sup>th</sup>: For the service of the year 1783 and prosecuting the war the sum of 6 M was thought necessary but only 2 M were called for, as loans were then expected to be made in Europe.

These requisitions being very partially complied with the monies borrowed were in a great degree our support. On the first day of January 1784, the whole sum paid on these requisitions was 1,486,511.71 dollars.

On the 27<sup>th</sup> April, 1784, Congress taking into consideration the distressed situation of the States, suspended the operation of the last requisition for 2 M dollars, and also one-half of the first for 8 M dollars only calling on the States to make good what sums they were deficient to compleat the half of the 8 M which was not suspended, which sum amounted to 2,670,987.89 Dollars.

Of this sum to the first of January, 1786, a space of two years there was paid only 971,475.44 dollars altho' the States had the indulgence of paying one fourth part of it in Certificates of Interest due from the United States to individuals.

On the 27<sup>th</sup> September, 1785, the States were called on to pay into the federal Treasury by the 1<sup>st</sup> of May, 1780, their respective quotas of 3 M dollars being a part of the remaining 4 M suspended in its operation by requisition of 27<sup>th</sup> April, 1784.

On this requisition there has not been paid in actual specie more than 100,000 dollars nor have many of the States fully complied with it. But eight States have passed any Acts relative to it, and in most of these it is found that the monies intended for the purposes of the Union and those of the State are blendid in the same collection;



that scarcely in any State funds are pointed out by law for providing its quota; and that in several a paper Currency is made receivable as specie in all payments whatsoever.

Having detailed to you simply and clearly the deficiencies that have arisen on the several requisitions from the 30<sup>th</sup> October, 1781, which amount to the sum of 4,442,012.65 dollars, we shall point out the reasons which we suppose to have occasioned them.

1<sup>st</sup>. An insufficiency in the extent of the funds provided for federal purposes.

2<sup>nd</sup>. If funds adequate have been provided a want of energy in collecting them or,

3<sup>rd</sup>. A misapplication of the monies when collected.

In whatever form we view the matter the result is that our difficulties have been occasioned by your misconduct, which leaves us a sure and certain hope that when you shall have impartially considered the facts we have stated to you, and their causes they will Operate a change of Measures, and leave us no cause in future to complain of deficient payments to the federal Treasury.

But that the present Requisition, which we make on you by Virtue of the powers of the Confederation may not be defeated we shall point out and most seriously recommend to you to enact what we conceive absolutely necessary to ensure a strict and prompt compliance with it; upon which your present well being in a great degree depends.

1<sup>st</sup>. That the taxes intended for the purposes of the Union should be distinct from those which are appropriated to the service of the State, and fully competent to the discharge of the sum called for.

2<sup>d</sup>. That they should be as simple as possible in their nature.

3<sup>d</sup>. That the collection of them should be made with energy and promptness—and that the State should not on any account interfere between the Collector and individuals so as to postpone the Collection.

4<sup>th</sup>. That the sums raised on the individuals should be paid in like manner as the quotas are receivable from the several States, that is to say, that the proportion of Specie pointed out by the Requisition should keep pace with the payments of the discounts of interest.

And if no general revenue system is to be adopted, which in our Opinion would be more for the honor and true interest of the Union, and we are still to depend on the present Constitutional mode of supplying the federal Treasury by Requisitions, we would recommend



to you immediately to enact your tax laws for raising a sum which may be equal to your supposed quotas of the next Requisition, so that when it shall be made you may have no more to do but to apply the necessary sum, for on the present system of not providing the funds until the requisition is made it must most clearly appear that allowing the taxes to be collected within the time called for by the States, the United States must always be in arrear and making Anticipations on the revenue—a system destructive of public Credit.

An attention to these principles with public and private frugality and Oeconomy would undoubtedly relieve us from the distresses under which we now labour, and leave us no longer room to complain of a Civil list and military establishment greatly in arrear, a foreign and domestic interest unpaid, and of consequence a ruined Credit, which brings with it a charge of want of justice and good faith, the foundation and pillars of a free Government, and without which it cannot exist.

You will observe that in the present Requisition, no less than 1,723,626.47 ought to be forthwith raised in specie for the express purpose of paying the Interest and certain installments of the principal of the foreign Debt, which will become due in the present, and the course of the ensuing year.

Such is the accumulation of debt, which has been brought on the people for want of an early adoption of the Resolves of the 18<sup>th</sup> of April, 1783. The probable amount of the impost part of which would have been near 4,000,000 Dollars, and which would have left a balance of upwards of 2 ~~M~~ dollars to have been applied to the extinguishment of the domestic debt.

It is painful to bring to view advantages which are lost, but as this is not gone for ever we think it our duty to truly state what might have been done, and what may still be done by proper exertions on your part.

The purposes to which the monies are to be applied are fairly stated—the evils that will attend a noncompliance are too evident to need recapitulation. The delinquent states must be responsible for all those Calamities.

We appeal to your reason, to your justice, and to interests of the people you represent; we conjure you no longer indolently to Neglect those things which ought to be done, but while you yet have it in your power; and before you are forced by some fatal disaster, or

driven by inevitable necessity into measures destructive of that confederacy to which you have all pledged yourselves sacredly to adhere, that you will exert yourselves efficaciously for the support of the general government of the United States.

But whatever may be the fate of those measures on which you have a right to deliberate and determine, *We, the United States in Congress Assembled by Virtue of the powers Vested in us by the Confederation* do call on you as members of the Confederacy to pay into the general Treasury at the time stipulated your respective Quotas of the present Requisition for the support of the general Government.<sup>1</sup>

The Committee [consisting of Mr. Arthur St. Clair, Mr. Jonathan Sturges and Mr. Edward Carrington] to whom was referred the Report of the Commissioner of the Hospital Accounts upon the Petition of the Ex<sup>ts</sup> of John Berrian beg leave to report:

That upon considering the Resolutions of Congress of the 8<sup>th</sup> of April, 1777, the 6<sup>th</sup> of Feby., 1778, and the 16<sup>th</sup> Jany., 1782, and the Duty of Assistant Deputy Director and Commissary of Hospitals, they have been induced to form an Opinion different from that of the Commissioner.

On the 8<sup>th</sup> of April, 1777, the daily pay of these Officers was fixed at two Dollars, and on the 6<sup>th</sup> of Feby., 1778, was raised to four Dollars. The Committee cannot imagine that these four Dollars were ever intended to be specie, nor is there any probability that some of the lowest Hospital Officers would be put upon a footing, with respect to pay, nearly equal to the Brigadiers and far superior to all the Field Officers of the Army.

The Sense of Congress seems to have been fully expressed upon this Subject in the Resolution of Jan<sup>y</sup> 15<sup>th</sup>, 1782, and the Commissioner ought to have been guided by that resolution in settling the Accounts of the Hospital and Medical Departments, and considered the specie pay of the Assistant Deputy Directors and Commissarys as fixed at two Dollars. The four Dollars granted afterwards were, clearly intended as an equivalent, but as the four Dollars are, by the Scale of Depreciation, worth something more than two Dollars in Specie, the Difference may have been designed as an addition to the pay of those Officers they therefore submit the following Resolution:

<sup>1</sup> This report, in the writing of Henry Remsen, jr., is in the *Papers of the Continental Congress*, No. 24, folio 363. It is indorsed by Roger Alden: "Report: Address to the several Legislatures to accompany the requisition of 1786." In this form it was apparently carried over to the final action thereon, October 17.

That the Commissioner of Hospital Accounts in adjusting the accounts of the A. D. Directors and Commissaries of the Hospital consider the Pay granted to said Officers from April 8<sup>th</sup>, 1777, to feby. 6<sup>th</sup>, 1778, as specie, and from and after the 6<sup>th</sup> of feby., 1778, their daily pay in Specie be ascertained by reducing the four Dollars then granted them to specie value according to the Scale of depreciation and be the Rule from that time forward.<sup>1</sup>

I Certify that during the confinement of the American Prisoners in South Carolina, under the Capitulation of Charleston, the State of the American Hospital was such as not to afford Bark, Wine, Sugar, Vinegar, or any other article of that kind for the use of the sick Officers upon Haddrills Point, nor could I after repeated applications, obtain any of the Said articles from the Director of the British Hospitals. Indeed I can with truth say, that the sufferings of the sick (and much sickness prevailed) amongst the whole of the Prisoners for want of almost every necessary, far exceeded belief and the feelings of human nature. And I recollect that during the time that the officers were on Haddrills Point, I heard from good authority of a large quantity of Bark and other necessaries being procured for them by some private means. As Witness my hand this 7<sup>th</sup> day of October, 1786.

DAVID OLYPHANT,<sup>2</sup>  
late D. H<sup>t</sup> S<sup>o</sup> D<sup>pt</sup>.

NEW YORK, Oct<sup>r</sup> 5<sup>th</sup>, 1786.

SIR: Previous to the departure of the Cornplanter a chief of the Six nations from this city last June, I directed him to communicate every matter which he might learn respecting the conduct of the British in a treaty then said to be holding with the Indians at Niagara, with all other useful information to Col. William Butler at Fort Pitt, in case I should not be there in time, and I requested Col. Butler to receive and transmit it to me. I therefore, agreeable to an Ordinance of Congress of the 7<sup>th</sup> Aug<sup>st</sup>, 1786, for the regulation of Indian Affairs which directs the communications of that department to be made to

<sup>1</sup> This report, in the writing of Arthur St. Clair, is in the *Papers of the Continental Congress*, No. 19, I, folio 309. According to indorsement it was read October 9.

<sup>2</sup> This certificate is in the *Papers of the Continental Congress*, No. 138, II, folio 307. According to indorsement it was read October 9 and "Referred with the report of the b<sup>d</sup> of treas<sup>y</sup> on pet: Gen<sup>l</sup> C. Scott and the papers accompanying to the said board to report." *Committee Book* No. 190 states that a report was rendered October 16.

Congress through the Secretary at War, do myself the honor to enclose a speech delivered by the Corn-planter the 11<sup>th</sup> of Sep<sup>r</sup> at Fort Pitt to Colonel Butler, and request you will be pleased to lay the same before Congress for their information, as I am of opinion it may be depended on.

I have the honor to be etc.

RICHARD BUTLER.<sup>1</sup>

To The Hon<sup>ble</sup> Major Gen. Knox,  
*Secretary at War.*

TUESDAY, OCTOBER 10, 1786.

Congress assembled. Present, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Maryland, Virginia, South Carolina and Georgia; and from Pennsylvania, Mr. [Charles] Pettit.

On the report of a committee, consisting of Mr. [Melancton] Smith, Mr. [Charles] Pinckney and Mr. [Jonathan] Sturges, to whom were referred a letter from the Superintendent of Indian Affairs, for the northern district, and a motion from the State of Georgia,

*Resolved*, That the Superintendent of Indian Affairs, for the Southern district, be, and he is hereby directed, to repair to the States of North Carolina, South Carolina and Georgia,

<sup>1</sup> This letter is in the *Papers of the Continental Congress*, No. 150, II, folio 1. According to indorsement it was read October 9; a copy of Cornplanter's speech is in No. 150, II, folio 9.

OCTOBER 9: The following committee was appointed: Mr. [Melancton] Smith, Mr. [Charles] Pinckney and Mr. [Jonathan] Sturges, on "Letter 6 Oct. 1786 R. Butler" and "Motion of delegates of Georgia." A report was rendered on part October 10 and on the remainder October 11.

Also, the "Letter 8 Oct. A. St. Clair respecting his ration acco<sup>t</sup>" was referred to the Commissioner of Army Accounts to report and a report rendered October 10.

Also, a memorial of David Oliphant, praying the settlement of his status in the hospital department, so that he can obtain his pay, was referred to the Commissioner of Hospital Accounts to report. According to indorsement, a report was rendered October 16 and referred to a committee the same day. A further indorsement is: "See Act Aug. 25, 1788." Oliphant's memorial is in No. 41, VII, folio 330.

*Committee Book No. 190.*



agreeably to the resolution of Congress of the 6th of the present Month, and as there is reason to believe there are animosities existing between the Indian Nations and the Inhabitants of the frontiers of North Carolina and Georgia, the said Superintendant is hereby directed to investigate the causes of the uneasinesses, and report the same to Congress, with all convenient despatch, in Order that such measures may be adopted, as may be most consistent with the interests of the United States, and the safety of their citizens.

That the said Superintendant be, and he is hereby directed, in the course, of his examination and in the execution of the duties of his Office, to confer and consult with the executives of the States of North Carolina, South Carolina and Georgia, and that it be, and it is hereby recommended to them to afford him all the aid and protection in their power, for the purposes above-mentioned.

*Resolved*, That if upon due examination, it shall be discovered that the Indians should refuse reasonable terms of pacification, and evince a disposition to commit or continue hostilities upon the citizens of the said States, that the executives of the States, whose inhabitants are subject to the effects of such hostility, be informed that Congress are determined always to afford the most ample protection in their power to the citizens of the United States.

*Ordered*, That the board of treasury take Order for giving the Superintendant for the southern district, an Order on the State of North Carolina, for a sum not exceeding five hundred dollars, for which the said superintendant shall be accountable.<sup>1</sup>

An Ordinance for the establishment of the Mint of the United States of America, and for regulating the value and alloy of coins, being read a second time,

<sup>1</sup> This report, in the writing of Charles Pinckney and Henry Remsen, jr., is in the *Papers of the Continental Congress*, No. 30, folio 303. The amount was not mentioned in the report.



*Ordered*, That thursday next be assigned for the third reading.<sup>1</sup>

The committee, consisting of Mr. [Charles] Pinckney, Mr. [Rufus] King and Mr. [Edward] Carrington, to whom was referred a report of the board of treasury, on a motion from South Carolina, having reported,

“That it appears from the said report, that there is a balance of 319 dollars, due to the Officers of the late Maryland line, for three months pay due to the subalterns, and two months due the Officers of other grades, in 1782, and four months due the Officers in 1783. That there are 13,004<sup>1</sup>/<sub>90</sub> dollars, due the Officers of the late Virginia line, and 10,276<sup>1</sup>/<sub>90</sub> dollars, due the Officers of the late South Carolina line and hospital department, for the same pay in 1782 and 1783,”

*Resolved*, by 9 States, That it be, and it is hereby recommended to the States of Maryland and Virginia, to pay to the Officers of their respective lines, the sums which shall appear due to them for the said three months pay in 1782, and four months in 1783, agreeably to the return of the late paymaster general, for which sums, when paid, the said States shall be entitled to a credit on their Specie proportions of the requisition of September, 1785.

That it be by d<sup>e</sup> and it is hereby recommended to the State of South Carolina, to pay to the Officers of their late line and hospital department, the said sum of ten thousand two hundred and seventy-six dollars and twelve-ninetieths mentioned to be due to them by the said report, the said sum to be paid to the said Officers, agreeably to a return of the late paymaster general, and for which the said state shall have credit, on the specie proportion of the last requisition.

On a report of the Commissioner of Accounts for the marine department, to whom was referred a petition of Abraham Whipple,

<sup>1</sup> See *post*, October 16.

That the claim of the Petitioner to be allowed the expences said to be incurred, in Attending to the settlement of his Accounts is inadmissable, and if Allowed, would introduce similar claims on the part of every person having Accounts to settle, with the Public.

With respect to the Moneys said to be expended in providing for Eleven passengers taken on board by Order of Doctor Franklin, no Authority is shewn, for expending any Monies for the purposes mentioned nor any Voucher for the Actual expenditure of the sum in Question. On the Contrary, a Resolve of Congress of the 25 July, 1777, Orders

“That when Agents, for the United States, or any person in Authority under them, put passengers on board any Continental Vessel of War, they shall lay in, the Necessary Stores, for their Accommodation, to prevent expence and inconvenience, to the Commanders.”

The Claim for an Allowance of two doll<sup>rs</sup> pr. day as extra pay for Commanding more Ships than One, Your Commissioner did not think himself Authorized to Allow, no provision having been made for that purpose, by Congress, but as Allowances have been made to Officers under similar circumstances in the Army.<sup>1</sup> Your Commissioner Submits whether like provision should not be made for the Marine.

On the whole Your Commissioner submits the following:

*Resolved*, by 9 States, That as it appears from the deposition of captain Whipple, that the sum of money, stated in his petition, was public Money stolen from him, without any negligence on his part, and that the sum therein said to be remaining in his hands, is the actual Money he received from the public, and has never been applied to any use since it came into his possession, the Commissioner of Accounts pass the said sums to his credit, on his returning the said Money, on hand, to the Commissioner:

<sup>1</sup> Resolves: 1777, April 15, Sept. 2; 1779, May 13; 1781, May 8.

That, as it appears also from the deposition of the said captain Whipple, that he expended a large sum of money in providing seastores for a number of passengers, ordered on board his ship in France, by Dr. Franklin, the commissioner of accounts be, and he is hereby directed to ascertain, as near as possible, the amount thereof, and allow it on the settlement of the said A. Whipple's accounts [upon his producing sufficient evidence, that the said passengers were received by Dr. Franklin's order] and that, an extra allowance of one Dollar and a half p. day be made to Capt. Whipple during the time he had Other Vessels than his Own under his Command.<sup>1</sup>

Posponed.

The Committee consisting of M<sup>r</sup> [Edward] Carrington, M<sup>r</sup> [Lambert] Cadwallader, and M<sup>r</sup> [Henry] Lee to whom was referred a Letter of the 19<sup>th</sup> of September from Jonathan Burrall respecting a claim of Donald Campbell, report as follows:

Your Committee find that on the 16<sup>th</sup> of June, 1775, it was resolved by the United States in Congress that there be one quarter master General for the grand army, and one deputy under him for the Separate Army; that the pay of the quarter master General be 80 dollars per month, and that of the deputy 40 dollars per month.

That on the 17<sup>th</sup> of July in the same year it was resolved that a deputy Quartermaster General be appointed for the New York department—that Donald Campbell was elected to that Office, and that it was resolved that he have the rank of Colonel in the army. That on the 13<sup>th</sup> of February, 1777, it was resolved that the s<sup>d</sup> Donald Campbell be continued in his former pay and Rank, and that he be directed to repair immediately to the Commissioners for auditing the Accounts of the Northern Army, and settle with them the Accounts of his late department; the former part of which last resolution appears to your Committee to have been occasioned by a report of General Gates, to whom had been referred the sentence of a Court Martial Cashiering the said Campbell, “that in his opinion the said” Donald Campbell Deputy Quartermaster General in the North-

<sup>1</sup> This report, in the writing of Commissioner Ben Walker, is in the *Papers of the Continental Congress*, No. 31, folio 159. The phrase in brackets was added by Congress. See *post*, October 12.

ern Army, did not deserve to be Cashiered for the crime alledged against him.

From the foregoing facts your Committee are of Opinion that the appointment of the said Donald Campbell, ought to be considered as applying to the Office of deputy Quartermaster General, described in the resolution of the 16<sup>th</sup> of June, 1775, and entitling him to the pay of forty dollars per month; That the resolution of the 13<sup>th</sup> of February, 1777, for continuing him in his former pay and rank, cannot be considered as operating to confer pay as to any existing Office, as the same resolution directs an immediate settlement of the Accounts of his late department, which shews that his Official standing in the Quartermasters department, upon his first appointment was at an end, and it does not appear, he ever had another; nor could it operate to annex the pay to his rank, as his former pay was annexed to his office as deputy quarter master General, and not to his rank in the Army. Your Committee are therefore of Opinion, that taking the whole of the said resolution of the 13<sup>th</sup> of February, 1777, together, the continuance of the former pay of the said Donald Campbell, must have been intended for no other purpose, than to enable him to settle his Accounts.

Whereupon the following Resolution is submitted: That the Commissioner for settling the accounts of the quartermaster's department be directed to settle with Donald Campbell as deputy quarter master General from the 17<sup>th</sup> of July, 1775, to the twentieth of June, 1781, when it appears that Congress ordered the Board of Treasury to make a final settlement of his Accounts, allowing him 40 dollars per month and the rations of provisions and forage legally annexed to his appointment, deducting from the amount whatever may have been heretofore allowed for the same.<sup>1</sup>

OFFICE FOR FOREIGN AFFAIRS,

*October 9, 1786.*

SIR: I take the earliest opportunity of informing your Excellency that Mr. Remsen, on reading the printed Scheme of a consular Convention, observed that it did not exactly correspond with the copy in this Office. This circumstance led him to compare it with the Orig-

<sup>1</sup> This report, in the writing of Henry Remsen, jr., is in the *Papers of the Continental Congress*, No. 19, V, folio 505. According to indorsement it was read October 10.



nal scheme in the secretary's Office; and on making that comparison he discovered important omissions in the 12 Article of the copy belonging to this Office. As the discovery of this Omission rescues the 10<sup>th</sup> Article of the convention from the charge of essential deviations from the 12 in the scheme, and as it shews the latter to be equally liable with the former to the Objections made against it in my report, I think it my duty to enclose a note of this variation between the original scheme and the copy in this Office, that Congress may have an opportunity of making any further Order that they may think proper on the subject. I confess that the Scheme now appears to me more ineligious than I before thought it, though I am still of opinion that the only prudent way of getting over this unpleasant business is to conclude a convention similar even to the scheme as it now appears to be, and render its inconveniences temporary by an Article limiting its duration.

With great respect and esteem, I have the honour to be, &c.

J. JAY.

His Excellency the President of Congress.

Note of the difference between the 12 Article of the scheme of the convention entered in the year 1782, on the Journal belonging to the Office for foreign Affairs,<sup>1</sup> and the said article in the Original Scheme recorded in the secret Journal in the secretary's Office.

<sup>1</sup> This Journal is No. 127 of the *Papers of the Continental Congress* and is at present retained in the custody of the Department of State.



12 Article.

“They (consuls and vice Consuls) may cause to be arrested and sequestered, every vessel carrying the flag of their respective Nations, *and even send them back to France or the United States, as the case may be; as well as arrest any captain, master, seaman or passenger of their respective Nations.* They may cause to be arrested and detained in the Country, sailors and deserters of their respective Nations, or cause them to be transported therefrom.”

12 Article.

“They (Consuls and vice Consuls) may cause to be arrested and sequestered, every vessel carrying the flag of their respective Nations. They may cause to be arrested and detained in the country, sailors and deserters of their respective Nations, or cause them to be transported therefrom.”

The *scored* lines show where the copy which Mr. Jay used, when he made his report on the Consular convention, deviates from the Original.

N. B. There were in that copy several other variations from the original, to the number of twenty in the whole, all of which are corrected; but as none of them, except the abovementioned, materially affects Mr. Jay's report, it is not thought necessary to enumerate them in this note.

The above letter and note were read in Congress, October 10, 1786, and thereupon,

*Ordered*, That the said letter be referred back to the secretary for foreign affairs, to take Order.<sup>1</sup>

WEDNESDAY, OCTOBER 11, 1786.

Congress assembled. Present, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, South Carolina and Georgia.

On the report of a committee, consisting of Mr. [Melancton] Smith, Mr. [Charles] Pinckney and Mr. [Jonathan] Sturges, to whom was referred a letter from the Superintendent of Indian Affairs, for the Northern district,

*Resolved*, That the Secretary of Congress, prepare a commission for the Superintendants of each district, that the same, when prepared, be signed by the president, and that the great seal of the United States be affixed thereto.<sup>2</sup>

*Resolved*, That the secretary at War report, with all convenient despatch, the draft of such instructions for the government of the Superintendants of the Northern and southern districts, in the execution of the duties of their Office, as when agreed to by Congress, it will be proper to transmit to them respectively for that purpose.

*Resolved*, That the board of treasury take order for directing the contractors, for furnishing the federal troops with supplies, to deliver to the Order of the Superintendent of

<sup>1</sup> The original of this letter is in the *Papers of the Continental Congress*, No. 80, III, folio 105. The proceedings are entered by Thomson in *Secret Journal, Foreign*, No. 5, and a signed copy is in *Secret Journal*, No. 6.

OCTOBER 10: According to indorsement a report of Comptroller James Milligan to the Board of Treasury, on the memorial of Udney Hay, was read. It is dated August 22, 1786. It is in No. 35, folio 45. The letter of the board forwarding a copy of Milligan's report is dated October 9 and is in No. 140, I, folio 271.

Also was read a letter from James White, accepting the appointment of Superintendent of Indian Affairs for the Southern Department. It is in No. 78, XXIV, folio 591.

<sup>2</sup> The form of these commissions is entered by Thomson in the *Papers of the Continental Congress*, No. 182, Form Book, under date of October 11, 1786.

the Northern district, such provisions as shall, in his Opinion, be proper for the Accommodation of those friendly Indians it may be necessary for him, from time to time, to confer with.

*Resolved*, That the board of treasury order such goods as belong to the United States, and are now in the custody of the commanding officer at the mouth of the Miami, to be delivered to the superintendant of the Northern district, to be disposed of as Congress shall hereafter direct.

*Resolved*, by 10 States, That the Board of treasury take Order for advancing to the Superintendant of the Northern district, a sum not exceeding five hundred dollars, for which he is to be accountable.<sup>1</sup>

*Resolved*, That the board of treasury take Order for advancing to the Superintendant of Indian affairs for the Southern district, a sum not exceeding five hundred dollars, for which he is to be accountable; and that the Order of yesterday for giving him an Order on the State of North Carolina, be, and it is hereby countermanded.

OFFICE FOR FOREIGN AFFAIRS,

*October 11<sup>th</sup>, 1786.*

SIR: I have the honour of transmitting to your Excellency herewith enclosed, a Letter of the 9th Instant, and a translation of it, which I received yesterday in the afternoon, from the Chargé des affaires of France; and request the orders of Congress respecting the request contained in it.

With great respect and esteem, I have the honour etc.

JOHN JAY.

His Excellency the President of Congress.

<sup>1</sup> This report, in the writing of Henry Remsen, jr., is in the *Papers of the Continental Congress*, No. 30, folio 307.

October, 1786

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NEW YORK, *October 9<sup>th</sup>, 1786.*

SIR: I take the liberty to request of you a communication of the resolution which Congress has taken concerning the Consular Convention. As that resolution has been taken in consequence of a Note which I have had the honor to send to the United States, by order of his Majesty, it appears proper that I transmit to my Court the determination which that Assembly has been pleased to take. I shall be much obliged to you for this new proof of your goodness.

I am, with respect, etc.,

OTTO.

The Honourable JOHN JAY,  
*Minister for Foreign Affairs.*

*Ordered,* That the above letter be referred to the Secretary for foreign affairs to report.<sup>1</sup>

The Board of Treasury to whom was referred a Memorial of James Smith of Cumberland County in the State of Pennsylvania, beg leave to Report:

That in pursuance of an order of Congress of the 21<sup>st</sup> March, 1785, there has been paid to the said James Smith the sum of Two thousand five hundred and sixteen Dollars and  $\frac{6}{10}$ ths being the balance of Principal found due to him on Account of sundry purchases of cattle, made by him during the late War; but that it does not appear that any Interest has been Computed or allowed to him on the payment of the said balance from the time it became due.

That it has been a general custom to allow Interest on all balances due from the United States to Individuals from the time the same became payable.

The Board are therefore of Opinion that this Rule ought to be extended to the Case of the Memorialist: but as the payment of the Principal found due from the United States to M<sup>r</sup> Smith has been far more favorable than to numbers of other Claimants, the Board

<sup>1</sup> This proceeding is entered by Henry Remsen, jr., in *Secret Journal, Foreign*, No. 5. A copy is in *Secret Journal*, No. 6. Jay's original letter, with a copy of Otto's, is in No. 80, III, folios 111-115. According to *Committee Book No. 190* Jay reported October 12.

are of opinion that the Interest found due on the balance above mentioned should be founded in the same manner with similar Claims against the United States.

They therefore submit to the Consideration of Congress the following Resolve, Viz<sup>t</sup>:

That the Commissioner for settling Accounts in the late Commissary Department be directed to ascertain the Interest on the Balance of Principal by him found due to James Smith on the 24<sup>th</sup> November, 1784, from the time the said balance became due, to the present day, and to issue his Certificate for the amount thereof in the usual Form.

On the part of the Memorial of the said James Smith, requiring Compensation for his Expences at Philadelphia, whilst attending the settlement of his Accounts, as an Assistant Comm<sup>r</sup> of Purchases; the Board beg leave to observe, that such allowance never having been made to persons having Accounts to settle with the United States, no Distinction ought in their opinion to be made in the Case of the Memorialist.

All which is humbly submitted.<sup>1</sup>

Board of Treasury,  
October 11<sup>th</sup>, 1786.

<sup>1</sup> This report, signed by Samuel Osgood, Walter Livingston and Arthur Lee, is in the *Papers of the Continental Congress*, No. 138, II, folio 381. According to indorsement it was read this day and referred to a committee October 17.

OCTOBER 11: The following committees were appointed:

Mr. [Nathan] Dane, Mr. [Nathan] Miller, Mr. [Jonathan] Sturges, Mr. [Melancton] Smith, Mr. [Lambert] Cadwallader, Mr. [Charles] Pettit, Mr. [John] Henry. Mr. [Edward] Carrington, Mr. [John] Bull and Mr. [William] Few, on the "Letter signed J. Dickinson," which forwarded the proceedings of the Annapolis Convention. This committee was renewed February 12, 1787.

Mr. [Melancton] Smith, Mr. [William Samuel] Johnson and Mr. [Jonathan] Sturges, on the "Report of board of treas<sup>r</sup> on pet: J. Burnside, D. Sweeny and Underwood." A report was rendered October 12. See *ante*, August 22.

Also "An Acco<sup>t</sup> of Capt. J. Woods" was referred to the Board of Treasury to report. See *post*, February 27 and May 15, 1788.

Also "Letter 24 feby and 23 April M. Dumas" was referred to the Secretary for Foreign Affairs to report, which he did February 3, 1787.

*Committee Book No. 190.*

Also, according to indorsement, was read a letter from James White, forwarding a letter from Alexander McGillivray regarding negotiations with the Creeks. It is in No. 78, XXIV, folio 595.



THURSDAY, OCTOBER 12, 1786.

Congress assembled. Present as before.

On the report of a committee, consisting of Mr. [Melancton] Smith, Mr. [William Samuel] Johnson and Mr. [John Bubenheim] Bayard, to whom was referred a report of the board of treasury, on a petition of three of the late clerks of the Commissioners, for settling the Accounts of the five great departments,

*Resolved*, by ten states, That the board of treasury take Order for paying to James Burnside, Doyle Sweeny, Robert Underwood, William Simmons, Charles Burrell, Charles Garvis and Thomas Benedict, who were employed as clerks in the Offices of the Commissioners of the five great departments, their salaries, from the 15 of April last, to the time when the books and papers of the respective departments were delivered over to the present Commissioners.<sup>1</sup>

Congress proceeded in the second reading of the Ordinance for establishing a board to liquidate and settle all accounts between the United States and individual States; when a motion was made by Mr. [Nathan] Dane, seconded by Mr. [William Samuel] Johnson, to strike out the following clause, viz.

That where any State has assumed to pay its citizens for supplies furnished for the use of the United States, the said board are hereby authorised and instructed, provided the assumptions have been made before the 10 October, 1786, to liquidate and settle such claims, agreeably to such rules as have been heretofore established for settling the same, had they remained with the individuals, and accordingly to reject or admit them as a charge against the United States.

And on the question, shall that paragraph stand? the yeas and nays being required by Mr. [John] Bull,

<sup>1</sup> This report, in the writing of [Melancton Smith] is in the *Papers of the Continental Congress*, No. 28, folio 323.

<i>Massachusetts,</i>			<i>Maryland,</i>	
Mr. Gorham,	ay	}div.	Mr. Henry,	ay
Dane,	no		Hindman,	ay
<i>Rhode Island,</i>			Ramsay,	ay
Mr. Manning,	no	}no	<i>Virginia,</i>	
Miller,	no		Mr. Carrington,	ay
<i>Connecticut,</i>			Lee,	ay
Mr. Johnson,	no	}div.	<i>South Carolina,</i>	
Sturges,	ay		Mr. Bull,	ay
<i>New York,</i>			Pinckney,	ay
Mr. Haring,	ay	}div.	Huger,	ay
Smith,	no		Parker,	ay
<i>New Jersey,</i>			<i>Georgia,</i>	
Mr. Cadwallader,	ay	}ay	Mr. Houstoun,	ay
Symmes,	ay		Few,	ay
Hornblower,	ay			
<i>Pennsylvania,</i>				
Mr. Pettit,	ay	}ay		
Bayard,	ay			

So the question was lost, and the paragraph was struck out.

A motion was then made by Mr. [Nathan] Dane, seconded by Mr. [Nathan] Miller, to postpone the further consideration of the Ordinance, in order to take up the following propositions:

That in settling Accounts between the United States and individual states, each state shall have credit on the continental specie establishment of \_\_\_\_\_ for the pay of all the troops such state in the late war actually furnished, over and above her proportion of the troops actually furnished by all the states on the requisitions of Congress, and such state shall be charged with all the advances, reduced to specie value by the scale of depreciation, made by the United States, on Account of pay to such troops, furnished by such states over and above her quota as aforesaid, and the balance found due to such states which have furnished more than their quota as aforesaid, shall be charged to the states deficient, by the rule aforesaid, in proportion to their deficiencies. And until a federal rule can be established, on the principles of the Confederation, each state's quota shall be ascertained by the rules by which the states, from time

to time, have been quotaed, and that the Secretary at War be directed to lay before Congress an account of the number of troops furnished on the requisitions of Congress by each state, from the 19 day of April, 1775, to the end of the late war, with the times they respectively continued in service. And the paymaster general be directed to lay before Congress an Account of all advances, reduced to specie value by the scale of depreciation, made by the United States, on account of pay to the troops furnished by each state as aforesaid. That each state shall have credit for the specie value of all bounties paid, or contracted to be paid by such state, her towns or citizens, from the 19 of April, 1775, to the end of the late war, to all the troops by such state actually raised and borne on the continental muster-rolls, on each requisition of Congress, over and above such state's quota of the troops so raised and borne on said rolls from all the states; provided the said credit in no case exceed the average values of bounties given by the States, and the amount in specie of said surplus bounties being ascertained as aforesaid, each deficient state shall be charged its proportion thereof, according to its deficiencies. And until a federal rule can be established on the principles of the Confederation, each state's quota of the troops so furnished shall be ascertained by the same rules by which troops, from time to time, have been quotaed on the states; and that the secretary at war be directed to lay before Congress, an account of the number of troops so furnished by each state on each requisition of Congress, specifying the times of service for which they were respectively enlisted. That from and after the first day of March next, no further payments be admitted on the requisition of Congress of March 18, 1780, for the redemption of one hundred and ninety five millions of dollars of the old emission money quotaed on the twelve eastern states, and that each state found deficient on that requisition after that period, shall be charged for its deficiencies at the rate of one specie dollar for every forty dollars of said emission it shall be found so deficient, with an interest thereon of six per cent. per annum, from the times the payments of the said requisitions became due."<sup>1</sup>

<sup>1</sup> This motion, in the writing of Nathan Dane, is in the *Papers of the Continental Congress*, No. 136, III, folio 303. A draft of a motion, in Dane's writing, which closely approximates part of the above, is on folio 307.

The ordinance being amended to read as follows:

An Ordinance for Establishing a Board to Liquidate and Settle all Accounts between the United States and Individual States:

It is hereby Ordained, by the United States in Congress assembled, that the authority of the commissioners, appointed in pursuance of the resolution of Congress of the 20 February, 1782, shall, from and after the first day of April next, terminate and cease, except the Commissioners for the States of North Carolina and Georgia, who shall continue in Office, for the purpose of settling the claims of Individuals, for such longer time, not exceeding six months, as the board of treasury shall direct: Provided always, that the board of treasury may sooner dismiss any of the said commissioners. That a board to consist of three members, any two of whom shall be a quorum, be appointed, who shall be, and hereby are, invested with all the powers and authorities of the aforesaid commissioners, so far as they relate to the settlement of the Accounts between the United States and individual states, and shall sit where Congress may, from time to time, direct.

That in cases where no written vouchers can be produced, for claims founded upon existing resolutions of Congress, and the said board shall receive satisfactory evidence that such vouchers have been destroyed or unavoidably lost, or that, from the circumstances of the case, they have never been obtained, the said board may receive such other evidence, as shall be satisfactory to them, provided the same be the best that the nature and circumstances of the case will admit of, and at their discretion may examine, on oath, any person or persons they may think fit, respecting the claims exhibited, whether accompanied with written vouchers or not.

That in cases where the testimony of a witness, not residing within twenty miles of the place where the said board shall sit, shall appear to be essential, the said board are hereby authorized to issue a commission to some proper person or persons, to take his deposition in writing, with the interrogatories and answers, in presence of the agent or agents of the party claimant, his or their attorney, and the person appointed by the said board, agent on the part of the United States: And the said board are hereby authorised to appoint some suitable person to be present as agent of the United States, at the taking such deposition, to interrogate the witness, and observe that his evidence contain the whole truth, and nothing more: And the said



board shall, in each commission, notify to the person or persons to whom the said commission may be issued, the name and place of residence of such agent, and the said person or persons shall give due notice, in writing, to the party claimant, and to the said agent, to be present at the taking such deposition, allowing at the rate of one day for every 10 miles the most remote of them shall be from the place where the deposition is to be taken.

That it be, and it is hereby recommended to the legislatures of the several states, to pass laws to enable the said board, and the person or persons so commissioned by them, to call before them, respectively, witnesses, and examine them on oath or affirmation in all matters touching the claims exhibited to the said board.

That where any state has claims against the United States, not authorised or sanctioned by existing resolutions of Congress, and the same shall be laid before the said board, within one year after the organization thereof, the board shall examine the same, and report the state of such claims, with their opinion thereon, to Congress.

That the members of the said board, respectively, shall be allowed a salary at the rate of two thousand dollars per annum, to be computed on the time they shall be actually employed in the said service.

That the commission of the board shall continue in force for three years, unless sooner revoked by Congress.<sup>1</sup>

On the question to postpone for the purpose above mentioned, the yeas and nays being required by Mr. [Nathan] Miller,

<i>Massachusetts,</i>			<i>New York,</i>		
Mr. Gorham.	ay	}ay	Mr. Haring,	ay	}ay
Dane,	ay		Smith,	ay	
<i>Rhode Island,</i>			<i>New Jersey,</i>		
Mr. Manning,	ay	}ay	Mr. Cadwallader,	no	}no
Miller,	ay		Symmes,	no	
<i>Connecticut,</i>			Hornblower.	ay	
Mr. Johnson,	ay	}ay			
Sturges,	ay				

<sup>1</sup> This text is from the printed ordinance as amended October 6. Thomson has made the necessary changes thereon with a pen and pasted the copy in the Journal at this point. See *post*, October 13.



<i>Pennsylvania,</i>			<i>South Carolina,</i>	
Mr. Pettit,	no	}no	Mr. Bull,	no
Bayard,	no		Pinckney,	no
<i>Maryland,</i>			Huger,	no
Mr. Henry,	no	}no	Parker,	no
Hindman,	no		<i>Georgia,</i>	
Ramsay,	no		Mr. Houstoun,	no
<i>Virginia,</i>			Few,	no
Mr. Carrington,	no	}no		
Lee,	no			

So the question was lost.

OFFICE FOR FOREIGN AFFAIRS,

October 12, 1786.

The Secretary of the United States for the department of foreign affairs, to whom was referred a letter to him of the 6<sup>th</sup> instant, from the Chargé des affaires of France, requesting that the resolution of Congress concerning the Consular Convention, may be communicated to him—Reports,

That in his opinion it would not be expedient to establish a precedent of communicating to a foreign Minister here, any Acts of Congress, committing business or giving instructions to their Minister at his Court; for as such practice would doubtless be inconvenient in *some* instances, it had better be avoided in *all*; lest if Congress should sometimes do it, and sometimes not, they would become exposed to the Necessity either of explaining the reasons of such diversity, or to the Risque of giving Offence by apparent partiality.

Your Secretary therefore thinks it advisable that he be ordered to inform the Chargé des affaires of France, that as their communications to his Most Christian Majesty will be officially made by their Minister resident at his Court, they do not think it Necessary to accept

his polite offer of conveying any they may direct respecting the Consular Convention.

All which is submitted to the wisdom of Congress.

JOHN JAY.

*Ordered*, That the above report be referred to the Secretary for foreign Affairs to take order.<sup>1</sup>

FRIDAY, OCTOBER 13, 1786.

Congress assembled. Present as before.

On the report of a committee, consisting of Mr. [Josiah] Hornblower, Mr. [John Cleves] Symmes and Mr. [Melancton] Smith, to whom was referred a memorial of captain Daniel Baldwin, with a report of the secretary at War and board of treasury thereon,

*Resolved*, by 9 States, That the Commissioner of Army Accounts make out a certificate to capt. Daniel Baldwin for one thousand dollars, in full for his services, expences and disbursements, for public service, during the time he was stationed at Newark, in New Jersey, in consequence of an Order from his Excellency the commander in chief.

Congress resumed the consideration of the Ordinance for establishing a board, to liquidate and settle all accounts between the United States and individual states: and a motion was made by Mr. [Charles] Pinckney, seconded by Mr. [Edward] Carrington, to insert in the Ordinance, in lieu of the paragraph struck out, the following clause:

That where supplies have been furnished by individuals for the use of the army of the United States, from the 1 January, 1780, and have been assumed by any state, the said board are hereby authorised and

<sup>1</sup> This proceeding is entered only in *Secret Journal, Foreign*, No. 5, by Henry Remsen, jr.; a copy signed by Thomson is in *Secret Journal*, No. 6. The original report is in No. 81, II, folio 179.

OCTOBER 12: According to indorsement the postponed portion of the report on Captain Whipple's petition was, this day, considered and the "Question taken and lost on the last paragraph." See *ante*, October 10.

instructed to liquidate the said claims upon the same principles as if they had remained in the hands of individuals, and admit them as a charge against the United States; that all other debts due from the United States to individuals and assumed by any state be liquidated, upon the same principles as if they had remained in the hands of the individuals, and admitted as a charge against the United States in their general account with the state so assuming; provided that nothing contained in this resolution be taken or construed to prejudice or affect the resolutions of February 25 and of 1 June, 1780, or any other resolution, allowing a state payment for supplies furnished the United States.<sup>1</sup>

A motion was made by Mr. [Melancton] Smith, seconded by Mr. [William Samuel] Johnson, to amend the motion by striking out the words "upon the same principles as if they had remained in the hands of individuals, and admit them as a charge against the United States:" And on the question, shall these words stand? the yeas and nays being required by Mr. [Charles] Pinckney,

<i>Massachusetts,</i>			<i>Pennsylvania,</i>		
Mr. Gorham,	no	}no	Mr. Pettit,	ay	}ay
Dane,	no		Bayard,	ay	
<i>Rhode Island,</i>			<i>Maryland,</i>		
Mr. Manning,	no	}no	Mr. Henry,	ay	}ay
Miller,	no		Ramsay,	ay	
<i>Connecticut,</i>			<i>Virginia,</i>		
Mr. Johnson,	no	}div.	Mr. Carrington,	ay	}ay
Sturges,	ay		Lee,	ay	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Haring,	no	}no	Mr. Bull,	ay	}ay
Smith,	no		Pinckney,	ay	
<i>New Jersey,</i>			Huger,	ay	
Mr. Cadwallader,	no	}no	<i>Georgia,</i>		
Symmcs,	no		Mr. Houstoun,	ay	}ay
			Few,	ay	

<sup>1</sup> This motion, in the writing of Charles Pinckney, is in the *Papers of the Continental Congress*, No. 36, III, folio 309.

So the question was lost, and the words were struck out.

A question being taken on the motion as amended, was lost.

The second reading being gone through, and the Ordinance further amended, it was read a third time: And on the question, shall the ordinance as amended pass? the yeas and nays being required by the state of South Carolina,

<i>Massachusetts,</i>			<i>Pennsylvania,</i>	
Mr. Gorham,	ay	}ay	Mr. Pettit,	ay
Dane,	ay		Bayard,	ay
<i>Rhode Island,</i>			<i>Maryland,</i>	
Mr. Manning,	ay	}ay	Mr. Henry,	ay
Miller,	ay		Ramsay,	no
<i>Connecticut,</i>			<i>Virginia,</i>	
Mr. Johnson,	ay	}ay	Mr. Carrington,	ay
Sturges,	ay		Lee,	ay
<i>New York,</i>			<i>South Carolina,</i>	
Mr. Haring,	ay	}ay	Mr. Bull,	no
Smith,	ay		Pinckney,	no
<i>New Jersey,</i>			Huger,	no
Mr. Cadwallader,	ay	}ay	<i>Georgia,</i>	
Symmes,	ay		Mr. Houstoun,	no
			Few,	no

So it was resolved in the affirmative, and the Ordinance was passed as follows:

An Ordinance for establishing a Board to liquidate and settle all Accounts between the United States and individual States.

It is hereby ordained, by the United States in Congress Assembled, that the authority of the Commissioners appointed in pursuance of the resolution of Congress of the 20 February, 1782, shall, from and after the first day of April next, terminate and cease, except the commissioners for the states of North Carolina and Georgia, who shall continue in office for the purpose of settling the claims of individuals for such longer time, not exceeding six months, as the board of treasury shall direct; provided always, that the board of treasury may sooner dismiss any of the said commissioners. That a board, to con-

sist of three members, any two of whom shall be a quorum, be appointed, who shall be, and hereby are invested with all the powers and Authorities of the aforesaid commissioners, so far as they relate to the settlement of the Accounts between the United States and individual states, and shall sit where Congress may, from time to time, direct.

That in cases where no written vouchers can be produced for claims founded upon existing resolutions of Congress, and the said board shall receive satisfactory evidence that such vouchers have been destroyed or unavoidably lost, or that, from the circumstances of the case, they have never been obtained, the said board may receive such other evidence as shall be satisfactory to them, provided the same be the best that the nature and circumstances of the case will admit of, and at their discretion may examine on Oath, any person or persons they may think fit, respecting the claims exhibited, whether accompanied with written vouchers or not.

That in cases where the testimony of a witness not residing within twenty miles of the place where the said board shall sit, shall appear to be essential, the said board are hereby authorised to issue a commission to some proper person or persons to take his deposition in writing, with the interrogatories and answers, in presence of the agent or agents of the party claimant, his or their Attorney, and the person appointed by the said board, agent on the part of the United States: And the said board are hereby authorised to appoint some suitable person to be present as agent of the United States, at the taking of such deposition, to interrogate the witness, and observe that his evidence contain the whole truth, and nothing more: And the said board shall, in each commission, notify to the person or persons to whom the said commission may be issued, the name and place of residence of such agent, and the said person or persons shall give due notice, in writing, to the party claimant, and to the said agent to be present at taking such deposition, allowing at the rate of one day for every ten miles the most remote of them shall be from the place where the deposition is to be taken.

That it be, and it is hereby recommended to the legislatures of the several states, to pass laws to enable the said board and the person or persons so commissioned by them, to call before them respectively, witnesses, and examine them on Oath or affirmation, in all matters touching the claims exhibited to the said board.

That where any state has claims against the United States, not authorised or sanctioned by existing resolutions of Congress, and the



same shall be laid before the said board, within one year after the organization thereof, the board shall examine the same, and report the state of such claims, with their Opinion thereon to Congress.

That the Commission of the board shall continue in force for three years, unless sooner revoked by Congress. Done, &c.

OFFICE FOR FOREIGN AFFAIRS,

*October 13, 1786.*

The Secretary of the United States for the Department of Foreign Affairs, to whom was referred a Letter of the 4th March last, from the Hon<sup>ble</sup>: John Adams, Esquire, together with the papers that accompanied it, reports,

That as the subject of these papers and of this report appears to your Secretary in a very important point of light, he thinks they should be so incorporated as that the record of the latter in this Office may always exhibit an entire and complete view of the whole business. He therefore reports,

That on the 8th day of December, 1785, Mr. Adams, agreeable to his instructions of the 7th day of March, 1785, presented to His Britannic Majesty's Secretary of State a Memorial, dated the 30th day of the preceding month, in the following words:

A MEMORIAL

The Subscriber, Minister plenipotentiary from the United States of America, has the honour to represent to the Ministry of His Britannic Majesty, that by the seventh Article of the preliminary treaty of peace between his Majesty and the United States of America, signed at Paris, on the thirtieth day of November, one thousand seven hundred and eighty two, confirmed by the definitive treaty of peace, signed at Paris, on the 3<sup>d</sup> day of September, one thousand seven hundred and

eighty three, it was stipulated, that his Britannic Majesty should, with all convenient speed, and without causing any destruction, or carrying away any Negroes or other property of the American Inhabitants, withdraw all his Armies, garrisons and fleets from the said United States, and from every port, place and harbour within the same, leaving in all fortifications the American Artillery that may be therein.

That, although a period of three years has elapsed since the signature of the preliminary treaty, and of more than two years since that of the definitive treaty, the posts of Oswegatchy, Oswego, Niagara, Presqueisle, Sandusky, Detroit, Michillimackinac, with others not necessary to be particularly enumerated, and a considerable territory round each of them, all within the incontestable limits of the said United States, are still held by British garrisons, to the loss and injury of the said United States.

The subscriber, therefore, in the name and behalf of the said United States, and in obedience to their express commands, has the honor to require of his Britannic Majesty's Ministry, that all his Majesty's Armies and garrisons be forthwith withdrawn from the said United States, from all and every of the posts and fortresses herein before enumerated, and from every other port, place and harbour, within the territory of the said United States, according to the true intention of the treaties aforesaid.

Done at Westminster, this thirtieth day of November, one thousand seven hundred and eighty five.

JOHN ADAMS.

That the answer received by Mr. Adams to the said Memorial is contained in the following letter from the said Secretary of State to Mr. Adams, viz<sup>t</sup>

ST. JAMES'S, *February 28, 1786.*

SIR: In answer to the Memorial you did me the honor to deliver to me on the 3th December, I have to observe to you, Sir, that it is his Majesty's fixed determination, upon the present as well as every other occasion, to act in perfect conformity to the strictest principles of justice and good faith.

The seventh Article both of the provisional and of the definitive treaties between his Majesty and the United States, clearly stipulates the withdrawing with all convenient speed, his Majesty's armies, garrisons and fleets, from the said United States, and from every port, place and harbour within the same; and no doubt can possibly arise respecting either the Letter or spirit of such an engagement.

The fourth Article of the same treaties as clearly stipulates, that Creditors on either side shall meet with no lawful impediment to the recovery of the full value in sterling money, of all bona fide debts heretofore contracted.

The little attention paid to the fulfilling this engagement on the part of the Subjects of the United States in general, and the direct breach of it in many particular instances, have already reduced many of the King's Subjects to the utmost degree of difficulty and distress; nor have their applications for redress, to those whose situations in America naturally pointed them out as the guardians of publick faith, been as yet successful in obtaining them that justice to which, on every principle of law as well as of humanity, they were clearly and indisputably entitled.

The engagements entered into by treaty ought to be mutual and equally binding on the respective contracting parties. It would therefore be the height of folly as well as injustice, to suppose one party alone obliged to a strict observance of the publick faith, while the other might remain free to deviate from its own engagements, as often as convenience might render such deviation necessary, though at the expense of its own National Credit and importance.

I flatter myself, however, Sir, that justice will speedily be done to british Creditors; and I can assure you, Sir, that whenever America shall manifest a real determination to fulfil her part of the treaty, Great Britain will not hesitate to prove her sincerity to co-operate in whatever points depend upon her for carrying every Article of it into real and complete effect.

The enclosed paper contains a state of the grievances complained of by Merchants and other British Subjects having estates, property and debts due to them in the several States of America.

I am, sir, your most obedient, humble servant,

CARMARTHEN.

JOHN ADAMS, Esq. &c. &c. &c.

That the state of Grievances mentioned in the said letter, and referred to in it, is as follows:

State of the grievances complained of by Merchants and other British Subjects, having estates, property and debts due to them in the several States of America.

MASSACHUSETTS BAY.

By an Act of this State, passed the 9th of November, 1784, the Justices of the Court of Judicature were directed severally to suspend rendering judgment for any interest that might have accrued between the 19th of

April and the 20th January, 1783, on debts due to British Subjects. This Act is peculiarly severe on the british Subject, against whom it is expressly pointed; the demand of interest is called inequitable and unjust, and the Legislature of this State conceive it to be repugnant to the spirit and intention of the fourth Article of the treaty of peace, which they say provides only for bona fide debts. The Act states that the Legislature have taken measures to obtain the sense of Congress upon this Article; but the Committee have not heard that any opinion has been given thereon.

## NEW YORK.

By an Act passed in this State, the 12th of July, 1782, british Creditors are precluded from the Claim of interest on all debts contracted before the 1st of January, 1776, until after the 1st of January, 1783; and Executions for the principal of those debts are forbidden to be levied, till the expiration of three years after the evacuation of New York. By another Act passed the 17th of March, 1783, and confirmed by others in 1784 and 1785, those Americans who had abandoned their possessions in New York upon its capture by the british troops, and resided without the lines during the War, are enabled to bring Actions of Trespass for rents, &c., during their absence, against the persons who had occupied their premises, whether under the authority or permission of the british Commander or otherwise, and who, by this Act, are precluded from pleading any military order whatsoever, in justification of their occupancy; it also authorises the sequestration of the Estates of british Subjects lying in that Country, for their Conduct during the War. By virtue of this law, Actions for claims to an enormous amount, were immediately instituted against british



Subjects, who, relying implicitly on the treaty of peace and the faith of nations, were encouraged to remain in New York upon its evacuation, for the purposes of collecting their debts and settling or extending their Commercial Affairs; and in Cases where those who had occupied the premises were not to be found, the demands were made on the Lodger, the late Servant, or the Agent of those Occupiers. These Suits have been prosecuted with the utmost severity, and being determinable by Juries of interested men, as well as conformable to the above-mentioned Statute, it is no wonder that verdicts of exorbitant rents and damages have in every instance been found against the Defendants.

PENNSYLVANIA.

This State has violated the 4th Article of the definitive treaty, by passing a Law soon after the peace to restrain the recovery of the old debts for a given period.

The british Merchants were in consequence thereof set at defiance; and few instances exist of payment having been made for any debts contracted before the War. This Law was limited to September, 1784; but whether it has been further extended by any new Act, or whether it expired at that time, the Committee are not certain. This law, operating with the fears and prejudices of some of the inhabitants, has produced effects of the most mischievous consequence to the british Merchants; for not only a uniform opposition has been made against the payment of interest, but the Lawyers, dreading the resentment of some of the most violent among their Countrymen, have refused to engage in the recovery of these unpopular demands, and the Committee are well assured that not one Action for the payment of an old british debt has been prosecuted in this State.

## VIRGINIA, MARYLAND AND NORTH CAROLINA.

The Merchants interested in the trade to these States, having already by their Chairman presented their Case and Memorial to the right honourable the Marquis of Carmarthen, respecting their situation as to the debts due to them previous to the late War, and the hardships they experience from the infraction of the 4th article of the definitive treaty, the Committee beg leave to refer to the annexed extract.

## SOUTH CAROLINA.

After Congress had ratified the definitive treaty of peace, they recommended a due observance thereof to the different States, and the Assembly of South Carolina resolved to carry the said treaty into execution, sincerely, strictly and compleatly, but regardless of those resolutions, and in Contravention to the treaty, the Legislature passed an Ordinance the 26th of March, 1784, declaring among other Things, that no Suit should be instituted for any debt contracted by any Citizen of the United States previous to the 26th of February, 1782, until the 1st of January, 1785, when the interest *only* which had accrued since January, 1780, might be recovered. And on the 1st of January, 1786, one fourth part of the principal and all such other interest as might be then due. On the 1st of January, 1787, one other fourth part of the principal and the interest which shall have accrued. On the first of January, 1788, one other fourth part of the principal and the interest accrued thereon. And on the 1st of January, 1789, the balance which may be then due.

By this Ordinance, debtors are judicially protected from Suits brought at the instance of their Creditors,

who are chiefly british Merchants; and so great and general are the obstructions to the recovery of debts, that in several districts remote from Charleston, the Courts have been prevented by tumultuous and riotous proceedings, from determining Actions for debt. By the delay thus occasioned, the property of the british Merchant becomes every day more precarious; his Credit and fortune are materially injured; and in many Cases totally destroyed.

To prevent the operation of the Act beforementioned, in cases where it empowers Creditors to sue for one fourth part of the principal of a debt on the 1st of January, 1786, an Act was passed by this Legislature the 12th of October, 1785, entitled "An Act for regulating sales under execution, and for other purposes therein mentioned;" whereby a debtor, during any period of a Suit that has been or may be commenced, is allowed to tender land in payment of his debt; such Land to be appraised by three Citizens of the County or Parish where it lies, who are authorised to value it as if sold at a Credit of six months: the Creditor is then obliged to take the Land at three fourths of the value at which it is so appraised. By the same Law it is further enacted, that no Creditor shall bring any Suit for debt, until he make application in writing from himself to his debtor for payment. This Act seems calculated to cut off all possibility of non resident british Creditors commencing a Suit. The proviso that he must write himself to his debtor, is considered as an insurmountable obstacle in his proceedings; as he must meet with innumerable difficulties in proving the delivery of his Letter to a debtor, who may reside in the interiour part of the State. Where this difficulty does not exist, the Creditor must either drop his Action or run the risk of

having property of little or no value, bordering perhaps on the Indian Country, forced upon him, which, if sold for Cash, would not produce one tenth part of its appraised value. Another instance of the violation of the 4th Article of the treaty, which provides that "Creditors on either side shall meet with no lawful impediment to the recovery of the full value in sterling money of all bona fide debts heretofore contracted," arises from the payment of debts to british Subjects, in depreciated paper Currency, which was forced into circulation during the War, and made a legal tender, according to its nominal value, by the then Government. The depreciation became so great, that debtors by such unjust tenders did not pay one shilling in the pound; and where they plead those payments or tenders in bar to the demands of their british Creditors, such Creditors are proportionally defrauded of their property.

The fifth Article of the treaty stipulates, that persons of certain descriptions shall have free liberty to go to any part of the United States, to obtain the restitution of their rights and properties. This Article has been grossly violated in this State; for though such persons were permitted to go thither, yet the purposes for which they went were frustrated by a suspension of the course of Justice; for they were compelled to depart by a publick notification from the Governour, and to abandon their property, under the aggravating reflection of having been at considerable expense both of time and money, in a delusive pursuit, and having also experienced great personal insult and abuse during their continuance in the State.

Several british Merchants who had sold goods in Charleston, while in possession of His Majesty's troops, were obliged to accept houses and Lands in payment

of debts. After its evacuation, an Act of Confiscation was enforced, which, though not passed till the 26th of February, 1782, had retrospect to the 4th of July, 1776. Houses and Lands then the property of persons in purview of the Act, but which had undergone many changes and actually belonged to british Merchants when the Act was passed, were sold by the Commissioners of confiscated estates in June, 1784, without any regard to their Claims, founded upon the 5th and 6th Articles of the treaty of peace. The property was sold at a Credit of five years, and State-indentments were to be received in payment. In case the State of Carolina should comply with the 5th Article of the treaty, it has been suggested that the Claimants will be paid in State-indentments, which are already depreciated 50 per Cent. and it is apprehended may at the end of five years be so reduced in value, that Creditors of this description will not receive one shilling in the pound of their demands.

It is also necessary to observe, that the decisions of the Board of police, established under the King's government in Charleston, however equitable, have been set aside *since the peace*. British Subjects have been deprived of their property, purchased under its process, and cast in excessive damages and Costs, for no other cause than having brought Actions therein for the recovery of debts, even where the defendant had confessed judgment, and when both plaintiff and defendant were british Subjects.

#### GEORGIA.

Laws and regulations similar to those which have passed in South Carolina exist in this State, with degrees of peculiar and manifest aggravation; the Judges from



the bench having declared, that no Suit shall be proceeded on if brought by a british Subject; while on the contrary, they allow british Subjects to be sued by their Creditors.

According to the present regulations in both Countries—

An American is protected in his property by our Laws. All our Courts are open to him for the recovery of any debt, as well interest as principal.

A british Merchant is in some States positively, in others virtually, prohibited from recovering his property, by their Legislatures from recovering his property, which is a violation of the 4th Article of the treaty of peace. In several States, judgment for interest for more than seven years is actually suspended by Law, whilst in others, although the Courts appear to be open, the Lawyers are afraid to prosecute for British debts.

Those Creditors are deemed fortunate who, upon giving up all Claim to interest (which is equal to thirty, and in some instances to forty per Cent.) can obtain security for the payment of the principal.

Extract of the Case and Memorial of the Merchants of London, Bristol, Liverpool, Whitehaven and Glasgow, trading to Virginia, Maryland and North Carolina, previous to the year 1776. Addressed to the right honour-

able the Marquis of Carmarthen, his Majesty's principal Secretary of State for the foreign Department.

That in the year 1777, the british agents and Factors as well as many of the Merchants were compelled to quit the late American Colonies, leaving behind them in real estates, debts and other property, equal in value to more than three millions sterling, belonging to the Merchants of London, Bristol, Liverpool and Glasgow. That in the course of the War, much of the property of the british Merchants was confiscated and sold; and debts owing to persons who had no share in the Contest, were paid into the public treasuries of Virginia and Maryland by Legislative authority.

That the provisional Articles of peace between Great Britain and the United States of America having been agreed upon the 30 November, 1782, and finally adjusted on the 3d of March, 1783, it was settled and agreed by the fourth Article of the said treaty, "That Creditors on either side should meet with no lawful impediment in the recovery of the full value in sterling money, of all bona fide debts heretofore contracted." And the fifth Article having stipulated, that the Congress should earnestly recommend to the Legislatures of the respective States, to provide for the restitution of all estates, rights and properties which had been confiscated, belonging to real british Subjects; and the sixth Article having provided, that there should be no future Confiscations, many of the british Merchants, anxiously solicitous to recover the property so long withheld from them, and upon which the support of their families in many instances depended, sent out Agents and Factors, particularly to Virginia and Maryland, not doubting but they should experience every facility in the collection of the wreck of their fortunes: but upon the 2d of

July, 1783, an Edict was published by the Governour of Virginia, ordering all the british Agents and Factors who had arrived in that State forthwith to depart the same. That in this situation, these Agents and Factors were not only compelled to retire on board of british Ships, then trading to the Country, but had the mortification to find, that the real estates of many of the british Merchants had been confiscated and sold, and the produce of the same applied to the public services of government. That in the month of October, 1783, the legislative Body of Virginia removed the restriction; in November following, the british Merchants and Agents were permitted to return; and they have remained unmolested since that period; but no permission whatsoever has been given, either to Merchants acting for themselves, or to Agents or Factors acting for Employers in Great-Britain, to recover any part of the debts or property left in the Country in the year 1775. That in the month of October, 1784, the legislative Body of Virginia met; and in the course of the sessions a Bill was brought in, the preamble of which runs thus: "Whereas by the 4th Article of the definitive treaty of peace between the United States of America and Great Britain, ratified by the King of Britain on the 12th day of May last, it was stipulated, among other things, by the said contracting parties, that Creditors on either side shall meet with no lawful impediment in the recovery of the full value, in sterling money, of all bona fide debts heretofore contracted; and *good faith requires, that the said treaty shall be carried into execution according to the true intent and meaning thereof.*" The Bill then proceeds to several enacting Clauses, the substance of which are as follows:— 1st. That the restraints disabling british Subjects from prosecuting for the recovery of debts shall be

removed by the repeal of an Ordinance made since the 19th April, 1775. 2d. That all british debts due before the date of the provisional Articles shall be discharged by seven equal payments, the first of which shall become due the 1st of April, 1786. 3d. That the other payments shall fall due on the same day in the six years then next following respectively. 4th. That no interest shall be allowed to british Subjects for any intermediate time between the 19th day of April, 1775, and the 3d day of March, 1783, the same time to be considered as one day in Law. 5th. That no settlement made by Bonds or other Specialties, with interest included, at any time since that period, shall preclude a Citizen of America from the benefit of this Act, so far as respects interest and payment by instalments to british Creditors. 6th. That no Execution shall issue against any debtor for more than the proportion of the instalment due for the time being; but such Execution may issue annually for the proportion then due, until the whole shall be discharged. 7th. That the Citizens of Virginia who have been resident there on the 19th April, 1775, and have remained ever since, although the partners of british Merchants, shall not, so far as they are concerned, be subject to the restrictions of this act, but shall enjoy the privileges of other Citizens. This Bill passed the Assembly and Senate of Virginia, but from the want of some forms, it was delayed if not lost.

That whether the same system of explaining and fulfilling the fourth Article of the definitive treaty will be followed by other States in America, or whether the Commonwealth of Virginia will finally enact this law, remains to be determined; but the peculiar hardships to which british Merchants are subject cannot fail to be strikingly conspicuous, when it is considered, 1st. That

it is now ten years since their property has been withheld from them. 2d. That they are to be deprived of eight years interest, equal to 40 per cent. 3d. That the system of making payments by instalments to run out to such lengths of time, must subject them to great loss, from the natural causes of deaths, bankruptcy and removals, which must be expected to happen in the course of eight years. 4th. That during this period no security can be demanded, neither can a debtor be restrained by law from wasting or removing property. 5th. That with all these disadvantages, that of removing the last payment to the year 1792, and of consequence obliging the british Merchants to keep Factors and Agents at a great expense in the Country to collect these debts, cannot fail to prove a great additional burden to your Memorialists. 6th. That no provision is proposed to be made for the real property confiscated and sold for publick services, nor for Money paid into the treasuries of Virginia and Maryland.

That these and other hardships are distressing in the extreme to the british Merchants. And when it is considered, that in addition to all this some of them have had the mortification to have their property confiscated and sold since the ratification of the treaty of peace, they conceive the grounds of their distress to be so peculiarly striking as to claim the assistance and interposition of the British government in procuring a compliance with the treaty of peace entered into with the American States.



*List of money paid into the Treasury in Maryland, on account of British debts.*

1781.	Currency, Exchange 66¾.	New Emissions.
February.....	2, 000	50
March.....	79, 517 13 11¼	1, 988 9 1½
April.....	2, 840	71
May.....	13, 386 8 6	335 13 6
June.....	46, 830 6 11	1, 170 15 7
	£144, 574 9 4¼	£3, 615 18 2½

N. B. The above sum of £144,574 is equal to £86,744 sterling.

*List of money paid into the Treasury in Virginia, on account of British Debts.*

	Paper Currency.	Depre- ciation.	Value in Specie.
Paid from the 2d March, 1778, to the last of Oct. both days inclusive.....	27, 022 17 9	5	5, 404 11 6¾
Do. last of October to the last of December, 1778....	14, 684 13	6	2, 447 9 8
December ditto March, 1779..	7, 086 11 2	10	708 13 1¼
March do. April.....	23, 435 3	16	1, 464 13 11¾
April do. June.....	28, 911 5 3	20	1, 445 11 3½
July.....	6, 533 4	21	311 2 1¼
August.....	3, 228 16	22	146 15 3½
September.....	5, 063	24	210 19 2
October.....	1, 475 15 6	28	52 14 1½
November.....	4, 315 4	36	119 17 4
December.....	12, 488 14 9	40	312 4 4½
January, 1780.....	1, 496 18 5	42	35 12 9¾
February.....	11, 972 0 8	45	266 0 10¾
March.....	6, 317 9 1	50	126 6 11¾
April and May.....	119, 522 15 7	60	1, 992 0 11¾
	£273, 554 13 7	-----	£15, 044 13 8

N. B. The above sum of £273,554 13 7, Currency, is equal to £12,035 sterling.

This and the preceding sheets contain true Copies of the state and lists enclosed in the Marquis of Carmarthen's Letter to me, dated 28th of February, 1786, in answer to the Memorial of the 30th November, delivered to his Lordship the 8th December, 1785, Compared by  
JOHN ADAMS.

On considering the before recited papers, these important questions present themselves:

1<sup>st</sup>. Whether any individual State has a right, by Acts of their own internal Legislature, to explain and decide the sense and meaning in which any particular Article of a National treaty shall be received and understood within the limits of that State?

2<sup>d</sup>. Whether any and which of the Acts enumerated in the List of Grievances do violate the treaty of peace between the United States and Great Britain?

3<sup>d</sup>. In case they or any of them should be found to violate it, what measures should be adopted in relation to Great Britain? And

4<sup>th</sup>. What measures should be adopted in relation to the State or States which passed the exceptionable Acts? Of these in their Order; and

1<sup>st</sup> Of the right of an individual State to enact in what sense a National treaty shall be understood within its particular Limits.

Your Secretary considers the thirteen independent sovereign States as having, by express delegation of power, formed and vested in Congress a perfect though limited sovereignty for the general and National purposes specified in the Confederation. In this Sovereignty they cannot severally participate (except by their Delegates) or have concurrent Jurisdiction; for the 9<sup>th</sup> Article of the Confederation most expressly conveys

to Congress the sole and *exclusive* right and power of determining on war and *peace*, and of entering into *treaties* and alliances, &c. &c.

When therefore a treaty is constitutionally made, ratified and published by Congress, it immediately becomes binding on the whole nation, and super-added to the laws of the land, without the intervention, consent or fiat of State legislatures. It derives its obligation from its being a compact between the Sovereign of this, and the Sovereign of another Nation; but Laws or statutes derive their force from being Acts of a Legislature competent to the passing of them. Hence it is clear, that treaties must be implicitly received and observed by every member of the Nation; for as State Legislatures are not competent to the making of such Compacts or treaties, so neither are they competent, in that capacity, authoritatively to decide on or ascertain the construction and sense of them. When doubts arise respecting the construction of State Laws, it is common and proper for the State Legislatures by explanatory or declaratory Acts to remove those doubts; but when doubts arise respecting the construction of a treaty, they are so far from being cognizable by a State Legislature, that Congress itself have no authority to settle and determine them. For as the Legislature only, which constitutionally passes a law, has power to revise and amend it, so the Sovereigns only, who are parties to the treaty, have power by posterior Articles and mutual consent to correct or explain it.

All doubts, in cases between private individuals, respecting the meaning of a treaty, like all doubts respecting the meaning of a law, are in the first instance mere judicial questions; and are to be heard and decided in the Courts of Justice having Cognizance of the causes

in which they arise, and whose duty it is to determine them according to the rules and maxims established by the laws of nations for the interpretation of treaties.

If this reasoning and these principles be right, as your Secretary thinks they are, it follows of consequence that no individual State has a right by legislative Acts to decide and point out the sense in which their particular Citizens and Courts shall understand this or that Article of a treaty. A Contrary doctrine would not only militate against the common and received principles and ideas relative to this subject, but would prove as ridiculous in practice, as it appears irrational in theory; for in that case, the same Article of the same treaty may by law mean one thing in New Hampshire, another in New York, and neither the one nor the other in Georgia.

It would be foreign to the object of this report to inquire how far such legislative Acts are valid and obligatory even within the limits of the State passing them. Much might be said on that head: certain however it is, that they cannot bind either of the contracting Sovereigns, and consequently cannot bind their respective Nations.

2<sup>d</sup> Whether any and which of the Acts mentioned in the list of Grievances do violate the treaty with Great Britain?

It is to be observed, that the violations complained of are confined to three Articles of the treaty, viz. the 4th, 5th, and 6th. Your Secretary will therefore proceed to arrange and consider these Acts in that order.

The 4th Article of the treaty is in these Words:

“It is agreed that the Creditors on either side shall meet with no lawful impediment to the recovery of the full value in sterling money of all bona fide debts heretofore contracted.”

This Article, in the opinion of your Secretary, establishes this point, viz<sup>t</sup> that the bona fide debts theretofore contracted remained unextinguished by the War. The propriety of making this remark will appear from adverting to the distinction there is between cases where the rights of Creditors survived the war, and cases where Creditors, having been divested of their rights in the course of the War, are restored to them by the treaty of peace. In the former case his right remains precisely as it was; but in the latter case it *may* sometimes be *questionable* whether the treaty *restores that right* wholly, or *only in part*; and such questions are only to be decided by recurring to the Article of restoration. This distinction is introduced for the purpose of casting light on the question, whether interest is or is not payable on, or comprised in, the *bona fide* debts mentioned in the Article before us. For if the Article considers these debts or Contracts as being in their original state of extent and obligation, there can be little doubt but that when a stipulation to pay interest makes a part of the Contract, every attempt to invalidate that particular part must be in opposition to the treaty. But, on the other hand, if the Article is to be considered as restoring Creditors to rights they had lost in the war, then inasmuch as it provides only for the recovery of the *bona fide debts*, without making mention of the interest accrued on them, it may be a question with some, whether the right to recover the interest is so attached to the right of recovering the principal, as that a restoration of the latter necessarily implies and restores the former; for nothing being said in the Article to exclude interest, the only question is, whether the revival of the principal debt does or does not operate as a revival of the interest? But this is only a secondary question, and to be asked only in case it



should appear that both principal and interest were lost in the war and restored by the treaty under the denomination of *bona fide debts*, which words some construe as including both principal and interest, and others think can intend only the principal.

They who consider this Article as being *restoratory*, must insist and ought to shew, that the debts said to be *restored* were actually lost to the Creditors in the course of the War. If that was the case, they must have been so lost either by extinction, remission or confiscation, and that either tacitly and silently by the laws of war, or expressly by National Acts.

Your Secretary is not informed of any laws of war among Civilized nations whereby all debts before subsisting between the people of belligerent Nations are immediately and silently either extinguished, remitted, or confiscated; and it would he conceives be useless to adduce the obvious reasons which induce him to think that there neither are nor ought to be any such Laws. If this be so, it follows that the 4th Article cannot be considered as *restoratory* on the principle that the debts in question were lost by the silent operation of such Laws.

The next enquiry then is, whether belligerent powers have a right by express Acts to extinguish, remit or confiscate such debts. Your Secretary thinks, that the laws of Nations strictly and rigidly considered will authorize it; but that since mankind have become more enlightened, and their manners more softened and humanized, it has not been common as well for those reasons, as for others suggested by the interest of Commerce and mutual intercourse, to practise such severities.

But admitting that the United States had a right to extinguish, remit or confiscate debts due from their Citizens to British Subjects, it still remains to be re-

quired whether, and in what manner, and by what Acts they exercised that right? For if they did not exercise this right at all, then it will follow that these debts were neither extinguished, remitted nor confiscated, and consequently, that the Article cannot be considered as *restoratory*; nothing being more clear than that restoration always implies previous deprivation.

Here a very important question presents itself, viz. Whether the State Legislatures can derive a right, from the existence of War between their Sovereign and a foreign one, to extinguish, remit or confiscate, by their Acts, debts due from their Citizens to the Subjects of that foreign Sovereign?

The rights to make war, to make peace, and to make treaties, appertaining *exclusively* to the National Sovereign, that is, to Congress, your Secretary is of opinion that the thirteen State Legislatures have no more authority to exercise the powers, or pass Acts of Sovereignty on those points, than any thirteen individual Citizens. To execute the laws, or exercise the rights of War against a National enemy, belongs only to the National Sovereign, or to those to whom the National Sovereign may constitutionally delegate such authority. So that whatever right each State, individually considered, may have to sequester or confiscate the property of their own proper Citizens, yet with respect to the common enemy of the Nation, they can separately do no Act of National Sovereignty; for surely a thirteenth part of a Nation can with no propriety assume a power of doing National Acts proper only to the National Sovereign. However recent may be the date of the Confederation, yet an union founded in Compact, and vesting the rights of War and peace in Congress, preceded it; and your Secretary is exceedingly mistaken if there ever was a period

since the year 1775, to this day, when either of the then Colonies, now States, were in capacity to pass State-laws for sequestering or confiscating the debts or property of a National enemy. It was then, and afterwards, by virtue of National Commissions, that the Enemy's property on the Sea was liable to be captured and confiscated; and equal authority was necessary to justify the confiscation of their property found on the land. Whatever State Acts therefore may have been passed during the war, exercising rights accruing to the Sovereign from the Laws of Nations respecting war, they cannot, in the opinion of your Secretary, be obligatory on either of the belligerent Sovereigns, and consequently not on any of their respective citizens or Subjects.

Your Secretary would not have it inferred from these remarks, that the States have passed *general* laws for confiscating british debts due from their Citizens. His design in these remarks is to obviate any arguments that might be drawn from certain other Acts less general and direct, but in his opinion equally improper, such for instance as those whereby certain british Subjects were declared Traitors, and whereby, as a consequence of treason, the debts due to them became payable to the State to which those British subjects were declared to be Traitors; for such laws, however absurd, do exist. There are also certain other Laws authorizing the payment of debts due to certain Individuals to be made at the State treasury in paper Money, &c. &c.

The question then again recurs, Did *Congress* do any Act for extinguishing, remitting or confiscating debts due from Americans to British Subjects?

In an Act of South Carolina, passed in their Senate the 26th February, 1782, and entitled "*An Act for disposing of certain estates, and banishing certain persons therein*

*mentioned,*" your Secretary finds the following recital, viz: "Whereas the good people of these States, having not only suffered great losses and damages by Captures of their property on the Sea by the Subjects of his britan- nic Majesty, but by their seizing and carrying off much property taken on the land. In consequence of such proceedings of the british Crown and those acting under its authority, the honorable Congress of the United States, after due and mature consideration, authorised the seizing and condemnation of *all property found on the Sea*, and belonging to the Subjects of Great Britain; and recommended to the several States, in which such Subjects had *property*, to confiscate the same for the publick use."

This recommendation is not specified by its date. Your Secretary has taken pains to find it in the Journals of Congress, but without success; nor does the Secretary of Congress recollect it. Admitting, however, that there was such a recommendation, yet he cannot think that a recommendation to confiscate *such british property* as might be in particular States, can with any propriety be construed to extend to the debts due from the people of such States to persons in Britain. Nay, the very Act which recites this recommendation, and which does confiscate the property of several british Subjects, makes an express exception of *debts*.

In short, your Secretary does not know of any Act of Congress whereby debts due from Americans to Britons were either extinguished, remitted or confiscated; and therefore concludes, that the 4th article of the treaty must be understood not as reviving or restoring those debts, but as considering them to be and remain exactly and precisely in their pristine and original state, both with respect to extent and obligation. If this conclusion be



just, your Secretary can perceive no ground for the singular reasons and questions that have prevailed respecting the payment of interest claimed by british Creditors in virtue of express Contracts between them and their American debtors. However harsh and severe the exaction of this interest, considering the war and its effects, may be and appear, yet the treaty must be taken and fulfilled with its bitter as well as its sweets; and although we were not obliged to accept peace on those terms, yet having so accepted it, we cannot now invalidate those terms or stipulations, nor with honor or Justice refuse to comply with them. Much better would it be for the United States, either severally or jointly, by their bounty to relieve those suffering and deserving individuals on whom the performance of this Article may press too hard, than by reasonings and Comments which neither posterity or impartial Contemporaries can think just, to permit our National reputation for probity, candor and good faith, to be tarnished.

Your Secretary will conclude what he has to say on the subject of interest with a few short remarks.

It appears to him that there are only *three* Cases in which interest can with justice be demanded; and that in the *first* of the three the Courts of Justice are not and ought not to be at liberty to refuse it, viz<sup>t</sup>:

1. In all cases where interest is fairly and expressly contracted and agreed to be paid. In such cases the debtor is unquestionably bound to pay it, and ought not to be absolved or excused from it by any Act of Legislature. In the opinion of your Secretary every Legislature deviates from the reason and limits of their institution, when they assume and exercise the power of annulling or altering *bona fide Contracts* between individuals.



2. Interest may be claimed in certain cases by Custom, viz<sup>t</sup> in Cases where it has long been usual for Merchants to expect and to allow interest on debts, after the stipulated term and time of Credit and payment has expired. This Custom in the ordinary course of things is reasonable, for equity demands that he who does not pay at the appointed day, should thereafter pay interest to his Creditor, as well by way of compensation for the disappointment as for the use of the money. Whether the reason of this custom can apply in time of War, or whether the equity of the demand of interest in virtue of the Custom, is, or is not, overbalanced by the equity of refusing it by reason of the effects of the War, are questions proper for the consideration of the Jury; and your Secretary sees nothing in the treaty to prevent their deciding as to them shall appear just and right.

3. Interest may be demanded, and is often given, under the idea of damages for wrongful and vexatious delays of payment. Every case of this kind must stand on its own merits; and the treaty leaves the jury at liberty to give such a verdict as their opinion of those merits may dictate.

Your Secretary will now proceed to examine the Acts complained of as infractions of this Article. The first on the list is called an *Act of Massachusetts*, passed the 9<sup>th</sup> November, 1784; but it was a resolution of the Legislature, rather than a formal Act. As the abridgement of it in the list of Grievances may not be so satisfactory to Congress as a recital of it at large, your Secretary thinks it best to report it.

COMMONWEALTH OF MASSACHUSETTS,

IN SENATE, *November 9, 1784.*

Whereas the payment of interest which might have accrued during the late war, upon debts due from the

Citizens of this or any of the United States prior to the commencement of the same, to real british Subjects and others, commonly called Absentees, would be not only inequitable and unjust, but the Legislature of this Commonwealth conceive repugnant to the spirit and intendment of the fourth Article in the treaty of peace, which provides only for the payment of bona fide debts, and as the Legislature have taken measures to obtain the sense of Congress upon the said article, so far as the same respects the payment of interest which might have accrued as aforesaid, and in the mean time Judgments may be obtained in some of the Courts of Law within this Commonwealth for interest accruing as aforesaid, contrary to the true design of the said treaty: Therefore,

*Resolved,* That in all Actions or suits, which are or may be instituted or brought to any of the judicial Courts within this Commonwealth, wherein any real british Subject or Absentee is plaintiff or defendant, and which actions or suits by the laws thereof are sustainable therein, the Justices of the same Courts are hereby severally directed to suspend rendering judgment for any interest that might have accrued upon the demand contained in such Actions or Suits between the 19th day of April, 1775, and the 20th day of January, 1783, until the third Wednesday of the next sitting of the General Court: provided always, that if in any such Actions or suits the Plaintiffs shall move for, or by default have right to judgment, then, and in such case, the Justices aforesaid shall cause judgment to be entered for the principal sum, which, by the laws of this Commonwealth, such Plaintiff shall be entitled to recover, and all such interest as accrued thereon before the said 19th day of April, and subsequent to said 20th

day of January; and Execution shall issue accordingly. And if Congress shall hereafter determine that the interest, which might have accrued on any bona fide debt aforesaid during the War, ought by the treaty aforesaid to be considered as part of such debt, then the said Courts respectively shall proceed to enter a further Judgment for the amount of all such last mentioned interest, without any new process, and issue Execution for such further sum accordingly; and all attachments made or Bail given upon any action instituted as aforesaid, shall be holden to respond the final Judgment that may be given for the amount of such last mentioned interest.

Sent down for concurrence.

SAMUEL ADAMS,  
*President.*

In the House of Representatives, November 10, 1784.  
Read and concurred.

SAMUEL A. OTIS,  
*Speaker.*

Approved,  
JOHN HANCOCK.

A true copy.

Attest, JOHN AVERY, jun .,  
*Secretary.*

However this resolution may deviate from the Treaty, and perhaps from the proper jurisdiction of the Legislature, yet it bears strong marks of fairness and regard to equal justice. It states their doubts on the construction of the Article. It does not assume the power of deciding those doubts. It refers that question to Congress; and although it *suspends* Judgments for interest, yet it does it impartially, and not only in cases where *british* Creditors are Plaintiffs, but also where

they are defendants. It also provides, that if Congress should decide in favour of interest, then Judgment and Execution shall be given accordingly.

Your Secretary is nevertheless of opinion that this resolution was an Infraction of the said 4th Article:

Because *State Legislatures* having no Cognizance of questions respecting the Construction of treaties, can with no propriety suspend their operation on account of any fears or apprehensions which they may entertain of and concerning such questions:

Because, as it appertained to the Courts of Judicature to decide such questions, the Legislature ought not to have restrained those Courts from rendering such judgments as to them appeared consistent with the treaty and the law. For by restraining the Courts from giving Judgment for interest in cases where they would have given such Judgment, unless so restrained, the Legislature did certainly interpose a *lawful impediment* to the plaintiff's recovering what the Courts were ready to adjudge to be his right under that Article of the treaty; and their so doing was therefore a violation of it.

The next Act complained of as being contrary to this Article is one of *New York*, passed the 12th July, 1782, which was some months prior to the date of the *provisional Articles*; so that this complaint must be ill founded, unless this Act (if inconsistent with the treaty) was continued and so executed *after the peace* as to violate the treaty.

It is by no means accurately stated, as will appear on comparing the account given of it in the list of grievances, with the Act itself, which is in the following words:

An Act relative to debts due to persons within the Enemy's lines, passed 12th July, 1782.

Whereas many of the inhabitants of this State, who have not remained within the enemy's power, and who were indebted to others who did so remain, are now threatened with suits, and have it not in their power to recover from those who are indebted to them and remained within the power of the enemy.

Be it therefore enacted by the people of the State of *New York*, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That all suits and prosecutions for any debt arising on simple Contract, Bills single or penal, or any other Obligation, Mortgage, Security or demand whatsoever, due by or from any person not within the enemy's power or lines, that has remained with, gone into, or has in consequence of any law of this state been sent within the enemy's power or lines, already commenced or which hereafter may be commenced, shall be stayed until the Legislature shall make further provision in the premises, any law to the contrary notwithstanding.

And whereas it is also just and reasonable that provision should be made for the relief of such Citizens of this State, who, having received in payment of debts due to them paper Currency, which at the time of such payment was a legal tender, and which they might of right have paid in discharge of any debts due by them, but which it was not in their power to pay to such of their Creditors as have remained with, gone into, or were so sent within the enemy's lines, and which money has, since the receipt thereof, depreciated in their hands: And whereas it is impossible to apply one general rule to all the variety of cases which do or may arise:

Be it therefore enacted by the authority aforesaid, That in every suit or prosecution which shall be commenced after the Legislature shall by law have declared



that the necessity of staying such suits or prosecutions as aforesaid do no longer exist, by any person who may have remained with the enemy, gone unto them, sent or to be sent as aforesaid unto them, against any person who has remained without the power of the enemy, it shall and may be lawful for the Court in which such suit shall be commenced or prosecuted, and the court is hereby required, on Motion of the Defendant or his Attorney, to appoint three or five Referees, at the option of the Court, to try the matter in controversy; and the Defendant shall, and hereby is allowed, to plead before such referees any special matter; and if it shall appear to the said Referees or the major part of them, that the special matter alleged and proved by the Defendant is of such a nature that in equity and good conscience abatement ought to be made from any sum or sums due by such Defendant, the Referees shall, by majority of voices, determine the quantum of such abatement; and having made their report and award in writing, shall return the same into Court; and the Court shall thereupon give judgment, and order execution to issue in favour of the Plaintiff for the sum so awarded to be due to the Plaintiff; provided, that such execution shall not be levied until the expiration of three years next after the enemy shall be expelled from, or shall have abandoned the City of New York.

And be it further enacted by the authority aforesaid, That it shall and may be lawful for every Defendant to pay in discharge of any debt so found due, as aforesaid, to such plaintiff as aforesaid, Certificates or Notes signed by any Commissioner of Loans of the United States, according to the value thereof, as settled by the Continental scale of depreciation, or Certificates for

money due on loan by this State, according to the value thereof, ascertained by law.

And be it further enacted by the authority aforesaid, That it shall and may be lawful for any person now without the power of the enemy, being a debtor to any person now within the power of the enemy, at any time after the enemy shall be expelled from, or shall have abandoned the City of New York, and that the Legislature shall have by law declared that such suits as aforesaid shall be no longer stayed, to cite his Creditors before any Court of law in this State to have a settlement, and make payment agreeable to the mode prescribed by this Act; and if the Creditors shall refuse to appear and come to trial, within two terms next after such Citation, he shall be and hereby is declared to be barred and precluded from recovering his said debt, due or demand, or any part thereof.

Be it further enacted by the authority aforesaid, That any Subject or Subjects of this State, not in the power or lines of the enemy, who are indebted by simple Contract, Bill single or penal, or any other Obligation, Mortgage, Security or demand whatsoever, to any person or persons, that have either remained with, gone into, or have, in consequence of any law of this State, been sent within the enemy's power or lines, for such Subjects of this State, not in the power or lines of the enemy, so indebted, shall be and hereby are discharged from any interest which may have become due on such Contract, bill, Obligation, Mortgage or securities, since the first day of January, 1776, to the first day of January which shall follow next after the conclusion of the present war; any law, usage or custom to the contrary notwithstanding. Provided, that nothing in this clause contained shall be deemed to operate as a discharge of any

interest which may have accrued on any such bill, obligation, Mortgage or other security, executed since the said first day of January, 1776: Provided nevertheless, that no person or persons shall be allowed the benefit of this Act, unless he, she or they shall first have taken the Oath of abjuration, and the Oath of Allegiance to this State, and shall obtain a Certificate signed by two reputable and well affected Freeholders of this State, one whereof shall be a Judge of the inferiour Court of common pleas of the County in which the person named in such Certificate shall reside, certifying that he or she is well attached to the freedom and independence of the United States of *America*, and have taken an active and decided part therein: and provided farther, that this Act, shall not extend to any debt or debts, contracted or made, or hereafter to be made for the use of the State, for the payment of which the faith thereof is pledged: and also provided farther, that nothing in this Act contained shall be construed to extend to any person that heretofore hath been, now is, or hereafter shall be a prisoner with the enemy.

It must be obvious to those who carefully peruse this Act, that it neither mentions nor respects *british Creditors*; and your Secretary is well informed that it never has been construed to extend to them, but on the contrary, it has universally been considered as incapable of such a construction. The complaint urged against it therefore is entirely without reason.

This circumstance shows the necessity of minutely examining the facts and complaints contained in this list of grievances.

The next in order is an Act of *Pensylvania*, said to have been passed soon after the peace. *to restrain the*

*recovery of the old debts* for a given period. The one intended is doubtless the following:

An Act for extending the provision made in the seventh section of the Act entitled "An Act for the repeal of so much of the Laws of this Commonwealth as make the Continental bills of Credit and the bills emitted by the resolves or Acts of Assemblies of the said Commonwealth a legal tender, and for other purposes therein mentioned."

Whereas the provision made by the Act entitled "An act for the repeal of so much of the laws of this Commonwealth as make the Continental Bills of Credit, and the Bills emitted by the resolves or Acts of Assemblies of said Commonwealth, a legal tender" in behalf of those persons who from principles of honor and honesty declined paying their debts with a depreciated paper Currency, when they had it in their power by law so to have done, will cease on the twenty first day of June next:

And whereas it was deemed reasonable at the time of passing the aforesaid act, that such honest debtors should not be compelled to pay their old debts till Gold and Silver money should become more plenty and easier to be procured: and Whereas from divers causes, it hath actually become more scarce and difficult to be procured than at the time of passing the aforesaid Act; and in consequence thereof great numbers of honest debtors as aforesaid will be ruined, unless some further relief be provided for them:

Be it therefore enacted, and it is hereby enacted by the representatives of the freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That no Execution shall issue for the principal sum due by any Contract or spe-



cies of Contract whatever, entered into before the first day of January, 1777, debts due to the State only excepted, until one year from and after the twenty first day of June next ensuing, and from thence until the end of the next sitting of Assembly, any thing in the said Act to the contrary notwithstanding.

And whereas divers debtors, who had contracted debts which by reason of losses and misfortunes in trade they were unable at the time to pay, have, before the first day of January, 1777, assigned and made over their real estates, or such parts thereof as their Creditors were willing to accept, to Trustees, in trust that the same shall be sold within a reasonable time, to pay and satisfy such debts; which said trusts have not been executed: and whereas the scarcity of Gold and Silver hath caused the value of Lands and tenements in most parts of this State to fall vastly below the real value of the same, and if compulsory sales were to be made of such lands and tenements, it is probable they would fall short of paying the debts which they were at first supposed a sufficient security for, to the injury and oppression of both Creditor and Debtor:

Be it therefore enacted by the authority aforesaid, That no sales shall be made by any such trustees of any lands or tenements which were so as aforesaid assigned and made over to them before the said twenty first day of June, 1784, and from thence until the end of the next sitting of Assembly, without the consent in writing of the debtor or assignor, or his legal representatives, first had and obtained.

And be it further enacted by the authority aforesaid, That no Act or Statute of limitation of Actions shall run, or be deemed or taken to have run, at any time between the first day of January, 1776, and the end of one year



from and after the twenty-first day of June next, upon all debts and Contracts made or entered into before the first day of January, 1776.

And be it further enacted by the authority aforesaid, That whenever it shall appear that any debt or duty was contracted or incurred on or before the first day of January, 1777, and any Bond, Obligation or other security hath been entered into for the payment thereof, since the said first day of January, the Plaintiff who hath brought or shall bring any suit or suits on any such bond or obligation, executed in the manner aforesaid, may proceed to judgment in such action, and may issue his Execution for the interest, damages and costs, as aforesaid; but no Execution shall issue for the principal debt or sum, until one year from and after the twenty-first day of June next, as aforesaid.

And be it also further enacted by the authority aforesaid, That so much of the aforesaid Act as is contrary to this Act, shall be and the same is hereby repealed and made void. Signed by the Order of the House.

FREDERICK A. MUHLENBERG,  
*Speaker.*

Enacted into a law at Philadelphia, on Wednesday the 12th day of March, in the Year of our Lord 1783.

PETER Z. LLOYD,  
*Clerk of the General Assembly.*

To say in general terms this Act was passed *to restrain the recovery of the old debts* for a given period, was rather conveying harder ideas of it than candor would justify; for from this description one would suppose that the Act was passed to prevent actions being brought for a given period for the recovery of british debts in particular, whereas the Act leaves every british and other Creditor at liberty to commence and prosecute actions to *Judgment*, and only restrains them for a limited time from

*issuing Executions* for the *principal sum* due. Your Secretary is nevertheless of opinion, that by law to restrain for any given time british Creditors from issuing Execution or judgments regularly obtained, is an infraction of the fourth Article of the treaty, and therefore that this Act of Pennsylvania must be considered in that light.

To this Act the list of Grievances imputes consequences, with which it does not appear to be chargeable. "This law, it says, operating with the fears and prejudices of some of the inhabitants, has produced effects of the most mischievous consequence to the british Merchants; for not only a uniform opposition has been made against the payment of *interest*, but the Lawyers, dreading the resentment of some of the most violent among their Countrymen, have refused to engage in the recovery of these unpopular demands, &c."

That there may have been an opposition to the payment of interest prevailing in Pennsylvania may be true, but the Act affords no countenance to such opposition, nor does it contain any thing to discourage or to induce the people to discourage Lawyers from commencing actions for the recovery of debts due to british Subjects. That they may have been generally disinclined to such Actions is possible, but surely they must reason strangely who, from the *personal* disinclination or refusal of Lawyers to be concerned in certain causes, can argue *legal* impediments to the prosecution of such Causes.

The Act in question was followed by another, which, though less exceptionable, is not altogether free from objections. It passed the 23d December, 1784, and is as follows:

An Act for directing the mode of recovering debts contracted before the first day of January, in the year of our Lord, 1777.

Whereas most of the debts contracted by the Citizens of this State, before the first day of January, in the Year of our Lord, 1777, which yet remain unpaid, are due and owing from persons, who, from principles of honor and honesty, declined paying their debts in paper Currency of less value than the money in which they were contracted, when by the laws of the state they might have so done, and it would be unreasonable that such debtors should be compelled or compellable to discharge their old debts in gold or silver money until it shall become more plenty, and easier to be acquired: And Whereas divers Acts have been heretofore made, giving time to such debtors to pay such debts, which acts have expired by their own limitation, and it is reasonable to provide a further term for the payment of such debts:

Be it therefore enacted, and it is hereby enacted by the Representatives of the freemen of the Commonwealth of Pennsylvania, in General Assembly met, and by the authority of the same, That where any Judgment hath already been or hereafter shall be entered in any Court of Record within this State, against any Citizen or Inhabitant thereof, either by default, or upon the confession of the party, the report of referees, the verdict of a Jury, or otherwise, for any sum of Money contracted for or due upon any Bond, Specialty, Bill, Note, Bill of Exchange, Order, Assumpsit, simple Contract, or otherwise, or for rents, or annuities due or payable before the said first day of January, in the year 1777, Such Court is hereby authorized and required to ascertain the sum or sums so due, in each respective case, and thereupon to give Judgment for the whole sum due, as well principal as legal interest, to the time of such Judgment being obtained, with stay of execu-

tion nevertheless for the respective times herein after limited, that is to say, as to one third part of the said principal and interest, and one year's interest thereon, and the whole cost and charges accrued thereon, for the term of one year from and after the passing of this Act: As to one other third part thereof, and one year's interest upon the two third parts thereof, with the increased costs and charges thereon, for the term of two years from and after the passing of this Act; and as to the remaining one third part thereof, with one years interest thereon, and the further increased Costs and charges thereon, for the term of three years from and after the passing of this Act; and that several executions for the said several proportions of the said debts or damages, may and shall be issued at the request of the plaintiff or plaintiffs, his, her or their Executors, Administrators or Assigns, if the said several proportions of the same be not paid and discharged, with interest and Costs, in the manner and at the times above specified. And in all such judgments hereafter to be entered, the stay of Execution shall be regulated in equal third parts, that is to say, the first third part thereof for such time as shall be equal to one third part of the time between the entering of such judgment and the expiration of three years from the passing of this act; the second third part thereof for such time as shall be equal to two third parts of the time from the entering such judgment, and the expiration of three years from the passing of this Act; and the remaining third part thereof until the expiration of the said three years from the passing of this Act; after which time Executions may and shall, at the request of the Plaintiff or Plaintiffs, his or their Executors, Administrators or Assigns,



or any person for him or them, be issued against the defendant or defendants, his, her or their Executors, Administrators or Assigns, without any writ or writs of Scire Facias to revive such Judgments.

And be it further enacted by the authority aforesaid, That all process and proceedings upon any writs of Execution now issued and in the hands of any Sheriff or other Officer within this State, founded upon Judgments obtained for any such debts due before the first day of January, in the year of our Lord, 1777, shall be stayed; and the Sheriffs and other Officers are hereby forbid to proceed therein, if the Defendant or Defendants in such writ named, or some person for him or them, shall tender and pay to such Sheriff or other Officer the amount of the interest of such debt, and the Costs and Charges accrued thereon, at any time before actual sale of the goods and chattels, lands and tenements, taken in execution, and shall give security that the goods and Chattels (if such be taken in Execution upon such Writs) shall be forth coming in equal plight and of equal value at the expiration of one year from the passing of this Act, and satisfy such debts or damages as in the said writs are specified.

And whereas divers persons have assigned and made over their Estates, or some parts thereof, to Trustees, to be sold for the satisfaction of debts contracted before the said first day of January, 1777, and it is reasonable to allow to such assigning debtors the benefit of the terms herein before allowed to other Debtors for discharging their old debts:

Be it therefore enacted, and it is hereby enacted by the authority aforesaid, That no Assignee or Assignees in trust of the Estate of any debtor, whose debts were contracted and the assignment to secure the same was made before the said first day of January, 1777, shall



have power to sell, or expose to sale, any part of the lands or tenements so to them or him assigned, for the purpose of raising money to pay such debts within the term of three years from the passing of this act, without the consent of such assigning debtor to be expressed in writing, or by his signing, as a Witness or a party, to the Deeds of Conveyance of the same.

Provided always nevertheless, That nothing contained in this Act shall be taken or construed to affect the recovery of any debt due to this State or to the United States; and that if any defendant or defendants, or any assigning debtor or debtors as aforesaid, are not or shall not be seized in his or their own right, of a real Estate sufficient to satisfy beyond reprises, all his, her or their debts, and shall be about to depart this State without securing the same, then and in such case, it shall and may be lawful to and for all and every Plaintiff and Plaintiffs, Creditor and Creditors, Assignee or Assignees, to sue out Executions, and proceed to sale, of all their goods and Chattels, lands and tenements, to satisfy such debts, in the same manner as he or they could have done the same, if this act had never been passed, any thing herein contained to the contrary in any wise notwithstanding.

And provided also, and be it further enacted by the authority aforesaid, That this Act, nor any thing therein contained, shall not extend or be construed to extend to any debt or debts which were due before the fourth day of July, 1776, by any of the Citizens of this state, to any of the Subjects of Great Britain.

Signed by order of the House. John Bayard, Speaker.

Enacted into a Law, at Philadelphia, on Thursday, the 23d day of December, in the Year of our Lord, 1784.

SAMUEL BRYAN,

*Clerk of the General Assembly.*

It is to be observed, that this Act applies generally to all debts contracted prior to the 1st January, 1777, and that the proviso in favour of british Creditors only prevents its extending to *such* debts to british Subjects, as were *due* before the 4th July, 1776; so that the law is left to operate on all debts to british Subjects, which became due between the 4th July, 1776, and 1st January, 1777. This discrimination in those debts appears to your Secretary to be inconsistent with the treaty, and the more so, as debts which became due in the course of that interval might have been, and many of them doubtless were, contracted at a much more early date, and before actual War had taken place between the two Countries. Inasmuch therefore as this Act creates lawful impediments to the recovery of those debts to british Subjects which became due or payable after the 4th July, 1776, your Secretary thinks it does in that respect contravene the 4th Article of the treaty.

*Maryland* is mentioned in the list of grievances as having violated the treaty by Acts relative to debts due to british Subjects, but no specific complaint or Charge is urged against her, nor is any one of the Acts named as liable to that imputation or construction.

Against *Virginia* the list of grievances contains pointed Complaints. It states that many british Merchants had sent Agents and Factors to *Maryland* and *Virginia* to collect their debts, &c. &c. and that the Governour of *Virginia*, on the 2d July, 1783, issued (what the Complainants call) an *Edict*, but in fact a proclamation, ordering as they say, "all the british Agents and Factors who had arrived in that State forthwith to depart the same."

This is not a candid representation of that proclamation. It is as follows:

By his Excellency, Benjamin Harrison, Esquire, Governour of the Commonwealth of Virginia,

## A PROCLAMATION.

Whereas by reason of the late suspension of hostilities between the United States and his Britannic Majesty, and an abuse of those indulgences granted to british Commerce at the last session of General Assembly, many evil disposed persons, still obnoxious to the laws of this commonwealth, have found means to introduce themselves into the same: And Whereas it is probable many others will follow their example, to the disturbance of the peace and harmony of the state, unless speedily prevented by a vigorous execution of the Law:— I have therefore thought fit, with the advice of the Council of State, to issue this my proclamation, hereby commanding all such persons as have either voluntarily left this Country and adhered to the Enemy since the 19th of April, 1775, or have been expelled the same, by any Act of the Legislature or Order of the Executive, or such Natives who have at any time borne arms in the service of the enemy against this Commonwealth, and have since returned without being authorized by law so to do, forthwith to depart the State. And I do further hereby strictly inhibit the return, as well of those as all others coming within the like description, until the determination of the Legislature on this subject can be known. And to the end that this proclamation may have its full effect, I hereby enjoin and command all Officers, Civil and Military, within this Commonwealth, and all others concerned, to pay due obedience thereto.

Given under my hand, and Seal of the Commonwealth, in the Council Chamber, the second day of July, 1783.

(Signed)

BENJAMIN HARRISON.

They who read this proclamation cannot easily avoid observing that it has no relation to *British Agents and Factors*, considered *as such*, but only to persons of certain descriptions, whose residence in Virginia was inadmissible by the laws then existing, and who while so circumstanced ought not to have gone, or been sent there, either as Factors, or in any other Character. It is also certain that this proclamation was issued on the 2d July, 1783, and that the treaty of peace was not ratified by either of the parties until the following year. It is very extraordinary therefore that, considering its Contents and date, this proclamation should be viewed by any candid eye as an infraction of the 4th or any other Article of the Treaty; especially too as the Complainants knew and do admit that in November, 1783, and before the treaty was ratified, "the legislative body of Virginia removed the restriction."

They further complain, that although the said Agents and Factors have since remained unmolested, yet that "no permission whatsoever has been given either to Merchants acting for themselves, or to Agents or Factors acting for employers in Britain, to recover any part of the debts or property left in the Country in the year 1775." But they do not particularize the Acts of Virginia which impose the restrictions they complain of.

Your Secretary nevertheless believes that fact to be as they represent it, for he finds it standing admitted by the Assembly of Virginia in resolutions they passed on the 22d June, 1784, viz<sup>t</sup>

## VIRGINIA TO WIT.

In General Assembly, the 22d of June, 1784.

It appearing to the General Assembly from a Letter from His Excellency General Washington, dated the 7th day of May, 1783, that in obedience to a resolution of Congress, he had a conference with General Carleton, on the subject of delivering up the Slaves and other property belonging to the Citizens of the United States, in compliance with the Articles of the provisional treaty; that he (General Carleton) appeared to evade a compliance with the said Treaty, by a misconstruction of the same, and permitted a large number of the said Slaves to be sent off to Nova Scotia. It further appearing to the General Assembly, from the testimony of Thomas Walke, Esquire, that he together with several other persons from the Counties of Norfolk and Princess Anne, in or about the month of April, 1783, went to New York, with a view of recovering the Slaves which had been taken from them by the british troops during the war; that not being permitted to take possession of those Slaves, which they found in that City, the said Walke made a personal application to General Carleton, and requested a delivery of the said Slaves in compliance with the seventh Article of the treaty which prohibits the carrying off Negroes, or other property, belonging to inhabitants of the United States. This he peremptorily refused, alleging that he was not authorized to do it without particular instructions from the british Government; that at the time of this application the said Walke was informed by an Aid de Camp of General Carleton, that an Agent was appointed to superintend the embarkation, and keep a register of Slaves sent to Nova Scotia; and that he afterwards saw



the said register, and also saw a large number of Negroes embarked to be sent to that Country. It further appearing to the General Assembly from the testimony of Mr. John Stewart, of the State of Maryland, as well as from a variety of other circumstances, that many applications were made to General Carleton, by Citizens of America, for the restitution of property, which were invariably rejected:

*Resolved*, That there has been an infraction on the part of Great Britain, of the seventh Article of the treaty of peace between the United States of America and Great Britain, in detaining the Slaves and other property of the Citizens of the United States.

*Resolved*, That the Delegates representing this State in Congress be instructed to lay before that body the subject matter of the preceding Information and resolution, and to request from them a remonstrance to the british Court, complaining of the aforesaid infraction of the treaty of peace, and desiring a proper reparation of the injuries consequent thereupon; that the said Delegates be instructed to inform Congress, that the General Assembly has no inclination to interfere with the power of making treaties with foreign nations, which the Confederation hath wisely vested in Congress; but it is conceived, that a just regard to the National honor and interest of the Citizens of this Commonwealth obliges the Assembly to withhold their co-operation in the compleat fulfilment of the said treaty, until the success of the aforesaid remonstrance is known, or Congress shall signify their sentiments touching the premises.

*Resolved*, That so soon as reparation is made for the aforesaid infraction, or Congress shall judge it indispensably necessary, such Acts of the Legislature passed during the late War, as inhibit the recovery of british

debts, ought to be repealed, and payment thereof made in such time and manner as shall consist with the exhausted situation of this Commonwealth. Extract from the Journal of Assembly.

JOHN BECKLEY,  
Clerk H. Ds.

Inasmuch therefore as laws of Virginia, existing in force after the peace, *did inhibit the recovery of british debts*, there can be no doubt, but that such inhibition was and is an infraction of the 4th Article of the Treaty. Whether that infraction was justifiable, or in other words, whether the reasons assigned for it in the preamble to those resolutions were good and sufficient, shall be considered under a distinct head.

As to the Bill said to have passed the Legislature of Virginia, in October, 1784, the Complainants admit that it never became a law, and therefore it is, and ought to be, entirely out of question.

*North Carolina* is classed with Virginia in such a manner as to infuse an idea of her having given occasion to similar complaints, but not a single charge being specified or stated against her, there is reason to presume that she had not given just cause for Complaint. Whether that is or is not in fact the case, your Secretary is uninformed, not having as yet been able to procure a Copy of the Acts of North Carolina.

Of *South Carolina* the list of grievances complains in strong and pointed terms. It takes particular notice of an Ordinance passed there the 26th March, 1784, viz<sup>t</sup>

AN ORDINANCE RESPECTING SUITS FOR THE RECOVERY  
OF DEBTS.

Be it ordained by the honourable the Senate and House of Representatives met in General Assembly, and

by the authority of the same, That no Suit or Action shall be commenced either in equity or at law for the recovery of any debt or bond, note or account, contracted by a Citizen of this or any of the United States, previous to the 26th day of February, in the year of our Lord, 1782, until the first day of January next, after which time it shall and may be lawful to and for any person and all persons, to sue for and recover all interest which shall have accrued since the first day of January, 1780, on all Bonds, Notes, or other Contracts bearing interest; provided nevertheless, that nothing herein contained shall be construed to extend to prevent any Creditor from suing for and recovering all interest accruing upon bond or notes, since the 26th day of February, 1782.

And be it further Ordained by the authority aforesaid, That it shall and may be lawful for any person and all persons, to whom any debt shall be due as aforesaid, to sue for and recover after the first day of January, which will be in the year of our Lord, 1786, all such other interest as may be then due on such debt, and the fourth part of the principal debt which shall be owing to him, her or them; and from and after the first day of January, which will be in the year of our Lord, 1787, one other fourth part of the principal debt, with the interest which shall have accrued thereon; and from and after the first day of January, which will be in the year of our Lord, 1788, one other fourth part of the principal debt, with the interest which shall have accrued thereon; and from and after the first day of January, which will be in the year of our Lord, 1789, the balance which may be then due and owing: provided nevertheless, that if any person who shall be indebted as aforesaid, shall, after a notice of ten days, refuse to give security to

his Creditor (which notice shall be proved by such Creditor on oath before any justice of the peace) for the payment of such sum or sums of money as may be due and owing to him, to be approved of by one of the Judges of the court of Common pleas, if in Charleston district, and by a Commissioner for taking special bail, if in any of the Circuit Court districts, that in such case it shall and may be lawful for the Creditor to sue for the said debt, and to proceed to execution, which execution may be levied, and the property so seized be sold, if the debtor shall refuse to give the security hereby required, and pay the Costs of suit.

And be it further Ordained by the authority aforesaid, That all moneys which shall be due on such open Accounts as are restrained by this Ordinance from being sued, shall bear an interest of seven per Cent. per Annum from the passing of this Ordinance.

And be it further Ordained by the authority aforesaid, That all Bonds or other Securities which have been given since the 26th day of February, in the year of our Lord, 1782, for debts contracted previous to that day, except Bonds or Notes which have been taken for interest due since that time, shall be, and the same are hereby declared to be no otherwise recoverable than other debts for which securities have not been given.

And be it further Ordained by the authority aforesaid, That no seizure shall be made of any property which may have been mortgaged previous to the 26th day of February, in the year of our Lord, 1782; provided the person whose property has been mortgaged shall pay the principal and interest of the debt for which the said property has been mortgaged at such periods as are required by this Ordinance; and on failure thereof the said mortgaged property may be taken and held by

the person to whom the same has been so mortgaged, until the payment shall be made as aforesaid.

In the Senate house, the 26th day of March, in the year of our Lord, 1784, and in the eighth year of the Independence of the United States of America.

JOHN LLOYD,  
*President of the Senate.*

HUGH RUTLEDGE,  
*Speaker of the House of Representatives.*

The most cursory comparison of this Ordinance with the 4th Article of the treaty, will point out the direct opposition that exists between them.

The list of grievances also states with much particularity an Act of South Carolina, which it says was passed 12th October, 1785, and entitled "An Act for regulating sales under execution, and for other purposes therein mentioned," whereby a debtor during any period of a suit that has been or may be commenced, is allowed to tender land in payment of his debts, &c.

Your Secretary has not been able to procure a Copy of this Act. If the account given of it in the list of grievances be accurate, it certainly is a singular Act, and a plain violation of the 4th Article, which expressly stipulates for the recovery of the full value *in sterling money* of all bona fide debts, &c. In the same light must be viewed the pleas (if adjudged good ones) of former tenders in depreciated paper in bar of the demands of british Creditors.

The list of grievances in a summary manner charges *Georgia* with having passed laws and regulations similar to those in South Carolina, and with degrees of peculiar and manifest aggravation. But as none of these Laws or regulations are specified, and as your Secretary has



not the Acts of Georgia, he cannot decide how far these Complaints against her are well founded or otherwise. It is much to be wished that the executive of each of the States could be prevailed upon, at the conclusion of every session, to transmit to Congress Copies of all the Acts passed by the Legislature during the course of it; or that Congress would be pleased to direct that such Copies be regularly purchased and sent to them at the public expense.

There are other matters mentioned in the list of grievances relative to the performance of the 4th Article, which merit some consideration. They may be comprised under two heads.

1. Popular and unpopular opposition to the recovery of debts.

2. The payments in paper made into State Treasuries, on account of debts due to british Creditors, pursuant to certain Acts of some of the States requiring or authorizing the same.

With respect to the *first* of these, your Secretary thinks the following observations are applicable to such cases, when and wherever arising.

Although popular reluctance and opposition to pay debts may, and probably does in some instances, retard and embarrass the recovery of them, yet while the course of Justice continues steadily to bear down that opposition, and to execute the laws with punctuality and decision, such vanquished opposition rather does honour than discredit to the government, and therefore however inconvenient any temporary commotions or improper combinations may have been, yet the vigorous and effectual interposition of Government must forever acquit it of blame.

But if from the imbecility and relaxation, or from the connivance of government, it should so happen, that the ordinary course of Justice becomes and continues so obstructed as that foreigners, claiming the benefit of treaties with the United States, cannot avail themselves of rights secured to them by such treaties, then in his opinion the delinquent state cannot be without blame; for as every government is and must be presumed to have sufficient power and energy to exact from its own Citizens a compliance with their own Compacts and stipulations, a failure or omission to do it will naturally be imputed to the want of inclination, and not to the want of means. Whenever such Cases happen, they must excite the notice of Congress, to whom it appertains to see that national treaties be faithfully observed throughout the whole extent of their jurisdiction.

Your Secretary does not think himself warranted by any facts which have hitherto come to his knowledge, to apply these principles against any of the states; for although the list of grievances complains "that so great and general are the obstructions to the recovery of debts, that in several districts remote from Charleston, the Courts have been prevented, by tumultuous and riotous proceedings, from determining Actions of debt," yet it neither informs us whether this was a singular or a common case, nor whether the government did or did not interpose and re-establish good order. The presumption is, that the Government did what they ought to have done; and he thinks such must continue to be the presumption, until well authenticated facts shall declare it to be ill founded.

Your Secretary does not experience much difficulty in forming a judgment of what is right relative to the

payments made into some of the State Treasuries, by debtors to british Creditors, in pursuance of certain State Acts requiring or authorizing the same.

From the principles stated in the preceding part of this report your Secretary infers, that the treaty of peace does consider the debts mentioned in the 4th Article as being exactly in their original state of obligation and extent, leaving the Contracts on which they depend, to be executed according to the tenor, true intent and meaning of them. If so, british Creditors have no sort of concern with any payments (made on account of the debts due to them) other than such as they either accepted, directed or approved; for in relation to the Creditor, all such payments are as if they had never been made, and he is justifiable in proceeding against his debtor accordingly. But between the debtor so paying into a State Treasury, and the State directing, inviting or authorizing him to do it, an account should be opened; and the state is, in your Secretary's opinion, bound in justice to repay him the then real value of such money as he so put into the treasury, together with lawful interest for the use of it.

But violations of the 4th Article are not the only ones alleged in the list of grievances. It expressly charges, that as little respect has in certain instances been paid to the 5th and 6th Articles. Of these in their Order.

The 5th Article is in these words: "It is agreed, that Congress shall earnestly recommend it to the Legislatures of the respective States, to provide for the restitution of all Estates, rights and properties, which have been confiscated, belonging to real British subjects, and also of the Estates, rights and properties of persons resident in districts in possession of his Majesty's Arms,

and who have not borne Arms against the said United States; and that persons of any other description shall have free liberty to go to any part or parts of the thirteen United States, and therein to remain twelve months unmolested in their endeavours to obtain the restitution of such of their Estates, rights and properties, as may have been confiscated; and that Congress shall also earnestly recommend to the several States, a reconsideration and revision of all Acts or Laws respecting the premises, so as to render the said Acts or Laws perfectly consistent, not only with justice and equity, but with that spirit of conciliation, which, on the return of the blessings of peace, should universally prevail; and that Congress shall also earnestly recommend to the several States, that the Estates, rights and properties of such last mentioned persons shall be restored to them, they refunding to any person who may now be in possession, the *bona fide* price (where any has been given) which such persons may have paid on purchasing any of the said lands, rights or properties, since the Confiscation. And it is agreed, that all persons who may have any interest in confiscated lands, either by debts, marriage settlements, or otherwise, shall meet with no lawful impediment in the prosecution of their just rights."

The Complainants insist that South Carolina has violated this Article, and in the following instances, viz<sup>t</sup>

1. That certain persons were permitted to go there to obtain the restitution of their rights and properties, and that the purposes for which they went were frustrated by a suspension of the Courts of Justice. That they were compelled to depart by a public notification from the Governor, after having been at considerable

expense of time and money in a delusive pursuit. That during their stay they experienced great personal insult and abuse.

Who these persons were, may be conjectured from the purposes for which they went to South Carolina. They went to *obtain the restitution of their rights and properties*, and were probably of the number of those who were objects of a certain Act passed there the 26th February, 1782, entitled "*An act for disposing of certain Estates, and banishing certain persons therein mentioned.*"

It should be remembered that this Act was passed during the war. An examination of it and of some subsequent Acts will tend to shew how far the complaint of these persons is well founded.

This Act divides the persons intended to be affected by it into Classes.

The *first* Class was composed of persons who were known to be *Subjects of his britannick Majesty*. Their Names are mentioned in a Schedule annexed to the Act, which is distinguished by list No. 1. No personal Offences are imputed to them, and National reasons are assigned for divesting them of their property real and personal, "debts excepted," for the use of the State.

The *second* Class was composed of persons who, *owing allegiance* to the State, refused to take an Oath professing the same.

The *third* Class consisted of persons who, *owing allegiance* to the State, had in 1779 taken up arms with the enemy, and having by proclamation been required by name to surrender themselves by a given time, did not obey. The Act divests them of their Estates, with



exception however of such as had returned and borne arms in defence of the state, before the 27th of September, 1781.

The *fourth* Class (named in list No. 2.) had withdrawn themselves from their *Allegiance*, and congratulated the Enemy's Leaders on the reduction of Charleston.

The *fifth* Class (named in List No. 3.) had withdrawn from their *Allegiance*, and requested to be embodied and to be permitted to serve as royal Militia.

The *sixth* Class (named in List No. 4.) had, in violation of their *duty to the State*, and with Circumstances aggravating the impropriety of such conduct, congratulated Earl Cornwallis on his success, and gloried in the blood of their Countrymen shed by the enemy.

The *seventh* Class (named in List No. 5.) held, or had held Commissions in the Enemy's service, in defiance of an Act of the State declaring such Offences to be Capital.

The *eighth* Class (named in List No. 6.) had manifested their attachment to the british Government, and their inveteracy to the States.

The Act divested these seven last mentioned Classes of their Estates, and banished all those whose names are mentioned in Lists No. 2, 3, 4 and 5.

From this Act, compared with the case of the Complainants as stated by themselves, it may fairly be inferred that they are not *british Subjects*, for none of that character are banished by the Act.

During the course of the same session, viz<sup>t</sup> 1782, an Act was passed entitled, "An Act for pardoning the persons therein *described*, on the conditions therein mentioned." The preamble is in these words: "Whereas many persons, Inhabitants of and owing Allegiance to this State, some of them having signed congratulatory Addresses to Sir Henry Clinton, and Mariot Aburthnot,

Esquire, and to the Earl Cornwallis, on the successes of his britannick Majesty's Arms in this Country, and others having borne Commissions under the british government, are excepted by the Governor's proclamation, bearing date on or about the 27th September last, from pardon for those offences: And whereas some of the said persons have surrendered to the Justice, and submitted themselves to the mercy of their Country: And Whereas many persons who would have been entitled to the benefit of the said proclamation, had they returned to their Allegiance before the expiration of the time limited for the same, did neglect to surrender themselves, but have since the 17th day of December withdrawn from the enemy and borne Arms in defence of this State, and the Legislature moved with compassion, are willing to grant them pardon on conditions which may in some degree atone for those Offences."

The Act then proceeds to charge them with the payment (within six months) of ten per cent. on the Amount of their estates, and thereupon to grant a full pardon to them all, excepting only such as were or might be accused of counterfeiting money, plundering, robbery, Houseburning, Housebreaking, or Murder. It also pardons all such as had borne Arms with the enemy, and had come out since the 17th December, and who had no estates; it however bound them over to the next session, and required that they should either do nine months duty in the Militia, or enlist in the Continental service.

Although this merciful and humane Act comprehended a large number of persons, yet it seems that the Complainants were either not included in it, or have failed to comply with the terms it required.

On the 16th March, 1783, an Act was passed "*To alter and amend* the Act entitled an Act for disposing of cer-

tain estates and banishing certain persons therein mentioned."

This Act also bears strong marks of temper and humanity. The preamble recites "*That whereas* in and by the sixteenth section of the said Act it is enacted, that instead of inflicting Capital punishment on such persons, they should be, and they are thereby to be forever banished from the said State: and if any of the said persons should remain in the said State forty days next after the passing of the said Act, or should return to this State, the Governor or Commander in Chief for the time being is thereby authorized and required to cause the persons remaining in, or returning to the State, to be apprehended and committed to Goal, there to remain without bail or Mainprize, until a convenient opportunity should offer of transporting the said person or persons from this state to some part of his britannick Majesty's dominions, which the Governour or Commander in Chief for the time being is thereby required to do: And if any of the said persons should return to this State after such transportation, then and in such case, he or they should be adjudged, and they are thereby declared to be guilty of felony, and should, upon Conviction of the Offence of having returned as aforesaid, suffer death without benefit of Clergy:"

"*And Whereas* notwithstanding the said Act, on the evacuation of the garrison at Charleston by the british forces, on the fourteenth day of December last past, many persons whose names are mentioned in the list annexed to the said Act, relying on the lenity of the American Government, and the mercy of their fellow Citizens, did remain and continue in Charleston, and have surrendered themselves to the custody of the sheriff of Charleston district, and have been confined by virtue

of and in pursuance of the said recited act, in the common Goal of Charleston district:"

"*And Whereas* such persons have severally preferred their humble petitions to the Legislature of the said State, asserting their innocence of any of the Crimes imputed to them, and praying for a trial and full examination of their Conduct, which petitions have been received and are referred to proper Committees, by both houses of the Legislature: *And Whereas* it is considered unnecessary in such cases, to carry the said in part recited Act into a full and strict execution, with respect to the close imprisonment and sale of the effects of the said persons as aforesaid surrendering and submitting themselves. And the Legislature, with its accustomed lenity, hath resolved to admit bail for such persons to be taken to enforce their appearance at a future day, when the merits of their petitions shall have been decided on."

The Act accordingly admits them to Bail, and suspends the further sale of their estates until their cases should be finally decided on. To this Act there is annexed, "A List of persons on the Confiscation Bill who have petitioned, and whose cases have been favorably determined in the Senate, and others who have been favorably reported on in the House of Representatives." This List contains above seventy names; the Complainants however seem not to have been of that description.

In the same session another good natured Act was passed, which among other things provided, "that the household furniture, plate, linen, wearing apparel, Carriages and Carriage horses, with such Negroes as were generally attendant upon the family of those

persons who were described in the Confiscation Act, *should be allowed to them.*"

Your Secretary takes notice of this Act because it indicates a degree of humanity in the Legislature which, considering the outrages committed in that State, is remarkable.

On the 17th March, 1783, an Ordinance was passed for disposing of the estates of certain persons, and for other purposes therein mentioned. It recites, "that many of the former Citizens of that State in violation of their allegiance had withdrawn themselves, and joined the enemy." It Confiscates the estates of such persons. It directs the Commanding Officers of the several Regiments of Militia to return the names of such persons to the Commissioners within three months. With great regard for justice and fairness, it permits such persons to return to the State within six months after the *end* of that session, *to take their trial*, and declares the Ordinance to be void as to such of them as should be acquitted.

If the Complainants were of the class mentioned in this Act, they either neglected the means it prescribes for them to manifest their innocence, or they failed in doing it.

On the 26th March, 1784, an Act was passed which in the opinion of your Secretary places the magnanimity and moderation of the State in so distinguished a point of light, that it ought to be inserted at large in this report.

"An Act for restoring to certain persons therein mentioned, their estates, both real and personal, and for permitting the said persons to return to this State, and for other purposes therein mentioned.



Whereas by an Act entitled, "An Act for disposing of certain estates, and banishing certain persons therein mentioned," the estates of such persons were confiscated and forfeited to the use of this State: and Whereas the United States in Congress assembled have earnestly recommended to the several States to reconsider and revise their laws regarding Confiscation, so as to render the said laws perfectly consistent not only with justice and equity but with that spirit of conciliation which, on the returns of the blessings of peace, should universally prevail:

*Be it enacted* by the Honorable the Senate and House of Representatives in General Assembly met, and by the authority of the same, That all and every the estate and estates, both real and personal, of the several persons whose names are mentioned in the List No. 1, hereunto annexed, and which estates have not been sold by the Commissioners of forfeited estates, is, and are, and shall be, taken from and divested out of the Commissioners appointed by the said Act for disposing of the said estates, and from their Heirs; and every such estate is hereby restored to and revested in the several persons respectively mentioned in the said List No. 1, and to the Heirs of each and every of them, in the same manner, and for the same use and behoof as each and every of the said persons were seized or possessed of the same, before the passing of the said Act.

*And be it further enacted* by the authority aforesaid, That all and every of the said person and persons mentioned in the Lists No. 1, 2 and 3 be allowed and permitted to return to, and reside in this State, and every part, clause, matter and thing in the said Act contained, respecting the banishment of the said persons, and the disposal of their estates for the use of this State, except

such parts thereof as have been sold by the Commissioners of forfeited estates, be and the same is hereby repealed.

Provided always, and be it further enacted by the authority aforesaid, That the persons named in the Lists No. 1 and 3, their Attorneys or Agents, where their estates have not been sold, should make a just and true return to the said Commissioners, on Oath or Affirmation, of all their estates real and personal, within four months next after the passing this Act, and that the said Commissioners shall cause an Assessment of twelve per Cent. to be rated on the just and real value of such estates, which Assessment shall be paid by the said persons to the said Commissioners in Specie, on or before the first day of March, 1785, and on their failing to do so, the said Commissioners shall cause such Assessment to be levied and paid into the Treasury, for the use of this State, and that the said Assessment shall be rated and levied in the mode prescribed by the amercement Act, with respect to the amercement thereby imposed; and where their estates have been sold, twelve per Cent. shall be deducted from the amount sales thereof, and that the Commissioners of confiscated estates shall be allowed a Commission of two pounds per Centum.

*And be it further enacted* by the authority aforesaid, That all and every estate and estates, both real and personal, of the several persons whose names are mentioned in the List No. 2 hereunto annexed, where the same is not yet sold, shall be taken from and divested out of the said Commissioners and their Heirs as aforesaid, and every such estate is hereby restored to, and revested in the several persons respectively mentioned in the said List No. 2, and to the Heirs of each and

every of them, in as full and ample a manner as hath been extended to the persons and their Heirs comprehended in the List No. 1; and that all and every person and persons mentioned in the said List No. 2, be allowed and permitted to return to, and reside in this State; and that they or any of them shall not be liable or subject to any amercement whatsoever, and every part, Clause, matter and thing in the said Act contained, respecting the banishment of the said persons, and the disposal of their estates, where any such estate hath not and is not already sold by the Commissioners aforesaid, for the use of the State, be and the same is hereby repealed.

*And be it further enacted* by the authority aforesaid, That in all and every case wherein the estate of any of the said persons hath been sold by the said Commissioners, and the purchaser shall be unwilling to give up the purchase to such original proprietor, then it shall and may be lawful for the Commissioners of the treasury or the Commissioners of forfeited estates, and they are hereby authorized and required, to pay on demand to every person respectively, in the said Lists No. 1, 2 and 3 comprehended, all such Indents and Specie as they the said Treasurers or Commissioners have or may receive from the said purchasers. And in all and every case, where such purchaser shall agree to give up his purchase to any original proprietor in the said three lists comprehended, (which proprietor shall be obliged to accept the said relinquishment) then in that case the Commissioners of the treasury and the Commissioners of forfeited estates, as the case may be, are hereby authorized and required to give up and restore to every such purchaser his bond and other security given for the purchase: *provided always*, that all and every person

in the said Lists No. 1, 2 and 3 comprehended, shall be liable and subject to pay all Commissions and Charges which may be due to the Commissioners of forfeited estates, or others acting under their authority. And in any instance where the Negroes or other property of any person hereby subject or liable to amercement hath been sold or taken, or moneys have been received by virtue of any law or publick authority of this State, the price for which such Negroes were sold, and the value of such other property and money received as aforesaid, shall be allowed in discount of their amercement respectively.

*And be it further enacted* by the authority aforesaid, That the several persons whose names are contained on the List No. 3, and all such on the List No. 1, who held military Commissions at any time during the war, be disqualified from being elected Governor, Lieutenant Governor, Member of the privy Council, or of either branch of the Legislature, or of holding any Office or place of trust within, or under the authority of this State, for and during the term of seven years.

*And Whereas* several persons have applied to the Legislature to be relieved from the penalties of an Act entitled "An Act for amercing certain persons therein "mentioned," whose petitions are referred to a Committee of each branch of the Legislature:

*Be it therefore enacted* by the authority aforesaid, That as much of the said Act as respects the several persons favourably reported on in either House, shall be, and the same is hereby repealed. And that the operation of the said Act shall be suspended as to the remainder of the said persons therein mentioned, until the end of the next meeting and sitting of the Legislature.



*And be it further enacted* by the authority aforesaid, That Nathaniel Russell, William Roach, James Wright, Peter Prow and Andrew Keigler, be, and they are hereby exempted from all the pains, penalties and forfeitures of an Ordinance of the General Assembly, passed the 17th day of March, 1783, entitled "An Ordinance for the disposal of the estates of certain persons, subjects and adherents of the british Government, and for other purposes therein mentioned."

In the same spirit of humanity the Legislature afterwards, to wit, the 19th March, 1785, passed a benevolent act, entitled, "An Act to afford a maintenance to the persons therein mentioned," and is as follows, viz<sup>t</sup>

Whereas it is but consistent with justice and humanity, that a suitable maintenance should be made to the Widows and Orphans of the following persons, whose whole estates are under confiscation:

Be it therefore enacted by the honourable the Senate and House of Representatives now met and sitting in General Assembly, and by the authority of the same, That the plantation or tract of land on Reaburn's Creek, containing two hundred Acres, late the property of Andrew Cunningham, whereon he formerly lived, and not sold by the Commissioners of forfeited estates, shall be and the same is hereby vested in Margaret Cunningham (Relict of the said Andrew Cunningham) and her children by the said Andrew Cunningham, now alive, their Heirs and Assigns forever.

Be it enacted by the authority aforesaid, That all those two plantations or tracts of Land, situate in the Neighbourhood of Ninety Six, late the property of Culbert Anderson, containing in the whole four hundred and forty one acres, and which were sold to Captain Richard Pollard, in July, 1783, but the terms of sale not



complied with, shall be and the same are hereby vested in Mary Anderson (Relict of the said Culbert Anderson) and her children by the said Culbert Anderson, now alive, their Heirs and Assigns for ever; she paying the Surveyor's fees, and contingent charges on the Sale.

Be it enacted by the authority aforesaid, That those two tenements or lots of land, late the property of Edward Oats, situate in Colleton-Square, the one seventy five feet front, and one hundred feet deep, the other thirty feet front and seventy-five feet deep, with eleven Acres of land, more or less, on Daniel's Island, shall be and the same are hereby vested in Elizabeth Oats (widow and relict of the said Edward Oats) and her Children by the said Edward Oats, their Heirs and Assigns for ever; she paying the expenses and contingent charges on the sale.

Be it enacted by the authority aforesaid, That five hundred acres of any lands, late the property of William Guest, not sold by the Commissioners of forfeited estates, that Sarah Guest, wife of the said William Guest, shall choose, shall be and the same is hereby vested in the said Sarah Guest and her Children by the said William Guest, their Heirs and Assigns for ever.

And be it further enacted by the authority aforesaid, That all personal property under Confiscation, not disposed of for public purposes, lately belonging to the said Andrew Cunningham, Culbert Anderson, William Guest and Edward Oats, shall be and the same is hereby restored to and vested in the said Margaret Cunningham, Mary Anderson, Sarah Guest and Elizabeth Oats, respectively, and their respective Children: *provided always*, that each estate or parts of estate so restored by this Act, shall be subject to the payment of

all just and *bona fide* debts that may be against such estate.

In the Senate house, the 19th day of March, A. D. 1785, and in the ninth year of the Independence of the United States of America.

JOHN LLOYD,

*President of the Senate.*

JOHN FAUCHEREAUD GRIMKE,

*Speaker of the House of Representatives.*

On the 24th March, 1785, an Act was passed whereby the estate which had been confiscated of Edward Fenwick was restored to, and revested in him, and he permitted to remain twelve months in the State.

From these several Acts it is apparent, that although much severity was naturally to be expected, and would have been excusable in South Carolina, considering the manner in which she had been treated, yet great regard to justice, and an uncommon degree of benevolence, humanity and mercy, has marked her conduct towards her offending Citizens. How it happened that the Complainants have not experienced the good effects of this continued prevailing disposition, cannot easily be accounted for on any principles reputable to their Characters.

They seem to have forgotten that the 5th Article of the treaty (the last Clause only excepted which has no relation to their Complaint) contains no other stipulation than that Congress should *recommend* the several matters therein stipulated. Congress accordingly recommended them; and South Carolina complied with those recommendations to a great extent. That State was at liberty to comply or not to comply in the whole or in part; she has shewn much mercy, and is not re-

sponsible for not shewing more. In that State as in some others, there doubtless were some Citizens to whom more mercy than they have received would have been injustice. Who the complainants are, or what may be their Character, or particular Cases, does not appear from the list of Grievances, nor has your Secretary any information respecting them. They had permission, it seems, to go to Charleston. That was a matter of favour, not of right. After a certain time they were ordered to depart. All this may be true, and yet the treaty remain unviolated.

They say the purposes of their going there were frustrated by a suspension of the Courts of Justice; if so, it evident that their business was not with the Legislative but with the courts; and business with the latter for the restitution or recovery of rights and property may as well be transacted by Attorney as in person.

If after coming there they were insulted and abused, the persons who treated them in that manner acted improperly; but insults and abuses are often of a kind of which the law takes no notice; and it is probable that those in question were of that kind, for the Complainants do not allege the contrary, nor do they in that respect impute any blame to the Government, which they would doubtless have done, if there had been room for it.

2. That several british Merchants, while Charleston was in possession of his Majesty's troops, accepted in payment of debts, houses and Lands, which on the 4th of July, 1776, were the property of persons, whose estates were confiscated by an Act passed 26th February, 1782, but which *retrospected* to the 4th July, 1776.

That these Lands which since July, 1776, had been often transferred and actually belonged to *british Merchants* when the Act passed, were afterwards, viz<sup>t</sup> in

June, 1784, sold by the Commissioners of Confiscated estates, without any regard to the Claims of these merchants founded on the 5th and 6th Articles of the Treaty.

Under this head the first question that presents itself is, whether, or how far it was right that the Act of the 26th February, 1782, should retrospect to 4th July, 1776.

This question may be discussed with more perspicuity by distinguishing between the *british Subjects*, and the offending *Citizens* who were the Objects of this Act.

The *first* violated no allegiance to the State, for they owed none. The Act imputes no particular Offences to them, but assigns general and National reasons for confiscating their property.

On the 4th July, 1776, all british Subjects became Aliens to the United States; thenceforth to the end of the War they were not only Aliens, but Alien enemies; as such they were during that period under legal disabilities, either to acquire or convey lands in this Country. On these principles therefore it was right and just that the act should consider all those lands to be still the lands of the british Subjects in question, of which they were Proprietors on the 4th July, 1776.

The next inquiry is, Whether the like retrospect in the Cases of offending *Citizens* was justifiable?

On this point your secretary thinks it not improper to observe, that if it shall appear that the Complainants are not interested in nor affected by such retrospect, that then it is a matter which they being Foreigners have no right to meddle with, nor to complain of.

By their own shewing it appears, that the Complainants are and were british Merchants, that is british Subjects, who during the War, when they were alien enemies, accepted grants of lands lying in this Country in payment of debts. No point is more indisputable or

more clearly established, both by the law of this Country and of England, than that Alienation of land to an Alien operates a forfeiture of it to the Sovereign; and if such be the law respecting Alien friends, with how much greater force does it apply to the Case of Alien Enemies? It follows then that the british Merchants in question, not being capable of purchasing and holding lands in this Country, nothing passed to them by the said Grants from their debtors; and if they thereby acquired no right or title to the Lands in Contemplation, they can with no propriety complain of or reprehend the Legislature of South Carolina for passing that or any other law respecting those lands.

As your Secretary considers this reasoning as being conclusive, he thinks it unnecessary to swell this report by any further remarks on the retrospect in this Act.

There remains but one further question on this head, viz<sup>t</sup> Whether the 5th or the 6th Articles of the treaty contain any thing to validate the titles which these british Merchants claim to have to these lands?

By the 5th Article "It is agreed that all persons who may have any interest in Confiscated lands either by debts, marriage settlements, or otherwise, shall meet with no lawful impediment in the prosecution of their just rights."

The obvious meaning of which is, that all fair lawful Contracts touching land, to which the parties were at the time competent, shall continue in full force and be executed in favour of innocent persons claiming the benefit thereof, notwithstanding the said lands may have been confiscated. The Article clearly relates to Grants or Contracts which at the time they were made were valid, and not to grants or contracts which at the time they were made conveyed no rights to the Grantees



or Contractees. The Article expressly removes impediments to the prosecution of just or legal rights, and that idea excludes the supposition of its meaning to confer validity to Claims not warranted by law, or to create rights which at no prior period had even existence.

If therefore these british Merchants never had nor could have title to or interest in these lands by any grants made during the war and subsequent to July, 1776, your Secretary cannot perceive the most distant reason for blaming the conduct of the Commissioners in paying no respect to such fruitless grants.

As to the 6th Article, it gives no Colour to the complaint. It provides,

1. That there shall be no *future* Confiscation.

The Confiscation in question was *prior* and not *future* to the treaty.

2. It forbids the *Commencement* of prosecutions against any person for *the part he may have taken during the war*.

The sale of lands long before vested in the State by Confiscation, can with no more propriety be called a *Commencement of a prosecution*, than the leasing, or tilling, or fencing it can be.

3. It declares that no person shall *on that account* suffer any *future* loss in his person, liberty or property.

If there was any *loss* in the present Case, it arose from the Confiscation that took place during the war, which, being in point of time before the treaty, cannot be easily construed to have been *posterior* or *future* to it.

Thus your Secretary has considered this complaint as resting on the facts and principles stated and assumed by the Complainants, and he presumes that nothing

further need be added to manifest its futility. He cannot however dismiss it, without remarking the want of Candour observable in the statement of this Complaint.

This Complaint gives the reader to understand that the Act retrospected generally, and confiscated without exception of Cases, the lands which the persons, who were the objects of it, possessed on the 4th July, 1776. The fact is otherwise, for that very Act contains the following Clause, viz<sup>t</sup>

“And be it further enacted by the authority aforesaid, that all real and personal property, of which the persons named in the said lists were possessed, either by themselves or Agents, on the 4th July, 1776, or at any time between that day and the 12th May, 1780, shall be held and deemed to be still theirs, *unless the same was really and bona fide sold, and conveyed for a valuable consideration of money paid or secured to be paid, and actual possession given to the purchaser before the said 12th May, without any secret trust or condition, and not with a view of eluding a forfeiture.*”

On the 16th March, 1783, an act was passed for amending the Confiscation Act, and in it there is a Clause which enacts “That where purchases have been made of the property of the banished persons, *before the passing of the confiscation Act*, by persons who were then Citizens of this, or of the United States, and where such purchases have been actually paid for, or only part of the purchase money paid, such persons shall still retain the property so purchased; provided the same was made for a valuable Consideration of money to be paid without collusion, or fraud, &c.”

The fact then really is, that the retrospect in question was so narrowed and limited, as to become perfectly consistent not only with strict law and justice, but

with the more delicate principles of equity and good conscience.

Lest an idea should be imbibed from this Complaint that bona fide Creditors lost their debts by this Act of Confiscation, it may be well to refer those who may not be well informed on the subject to the first enacting clause of the last mentioned Act, which provides, "that the estates of the persons mentioned on the List No. one, specified in the said Act, of those who left this Country upon refusing to take the Oath of Allegiance, and also those who withdrew from their Allegiance, and went over to, and took up Arms with, the enemy in the year of our Lord, 1779, shall be respectively liable to discharge the debts due by them, as the estates of those persons who are mentioned on the List, Numbers two, three, four, five and six." It further provides, that such debts "when examined and certified by the Auditor General, shall be allowed in purchase of any confiscated property, where the estates against which the debts shall be so certified are fully and clearly equal to the demands upon them; or, at the option of such Creditors, they shall be paid proportionately out of the annual interest arising on the bonds given for the purchase of confiscated estates." The Act directs such demands to be brought in and liquidated by the 20th July next; but by a posterior Act, passed 26th March, 1784, the term was extended to 26th March, 1785.

The List of grievances also contains a singular Complaint respecting certain Adjudications in Charleston; for it is not suggested that any Act of the Legislature had been passed on the subject, viz.

"That the decisions of the board of police, established under the King's Government in Charleston, however equitable, have been set aside since the peace. British

Subjects have been deprived of their property purchased under its process, and cast in excessive damages and Costs, for no other cause than having brought Actions therein for the recovery of debts, even where the Defendant had confessed judgment, and when both Plaintiff and defendant were british Subjects."

If the Complainants had particularized any one of these Cases, by stating the nature of the cause, the names of the parties, and by what Court and when it was tried and adjudged, more respect would have been due to their representation than it seems to merit in its present form. Why these important particulars were omitted can only be conjectured.

Your Secretary has no other information respecting these extraordinary facts than what he derives from the list of grievances. To him, however, it appears sufficient to observe, that the laws of Nations afford an answer to this complaint, which ought, in the present state of it to be satisfactory, viz: "As the Administration of Justice necessarily requires that every definitive Sentence, regularly pronounced, be esteemed just, and executed as such, as soon as a Cause in which Foreigners find themselves interested has been decided in form, the Sovereign of the Defendant cannot hear their Complaints. To undertake to examine the justice of a definitive sentence, is to attack the Jurisdiction of him who has passed it. The Prince ought not then to interfere in the Causes of his Subjects in foreign Countries, and to grant them his protection, excepting in the cases of a refusal of justice, palpable and evident injustice, a manifest violation of rules and form, or an odious distinction made to the prejudice of his Subjects, or of Foreigners in general."

Your Secretary having considered several matters alleged against South Carolina as violations of the sixth Article, will now proceed to examine the remaining complaints of the like kind against New York; for South Carolina and New York are the only States against whom such complaints are made.

It should be remembered that this Article contains five express and positive stipulations, viz<sup>t</sup>

1. That there shall be no future confiscations made.
2. That there shall not be any prosecutions commenced against any *for the part he may have taken during the War.*
3. That no person shall *on that account* suffer any future loss or damage either in his person, liberty or property.
4. That persons in confinement on such charges shall be set at liberty; and
5. That the prosecutions so commenced shall be discontinued.

It is charged that the State of New York has violated this Article; for that by an Act "passed the 17th March, 1783, and confirmed by others in 1784 and 1785, those Americans who had abandoned their possessions in New York, upon its Capture by the british troops, and resided without the lines during the war, are enabled to bring Actions of trespass for rent, &c. during their absence, against persons who had occupied their premises, whether under the authority or permission of the British Commander or otherwise, and who by this Act are precluded from pleading any *Military Order* whatsoever in justification of their occupancy. It also authorizes the sequestration of the estates of british Subjects lying in that Country for their Conduct during the War."



This charge (the last Article excepted) is not without foundation, as will appear from a perusal of this extraordinary Act. It is as follows:

An Act for granting a more effectual relief in cases of certain trespass. Passed 17th March, 1783.

Be it enacted by the people of the State of New York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That it shall and may be lawful for any person or persons, who are or were Inhabitants of this State, and who, by reason of the invasion of the enemy, left his, her or their place or places of abode, and who have not voluntarily put themselves respectively into the power of the enemy, since they respectively left their places of abode, his, her or their Heirs, Executors or Administrators, to bring an action of trespass against any person or persons who may have occupied, injured or destroyed his, her or their estate, either real or personal, within the power of the enemy, or against any person or persons, who shall have purchased or received any such goods or effects, or against his, her or their Heirs, Executors or Administrators, in any Court of record within this State, having cognizance of the same; in which Action, if the same shall be brought against the person or persons who have occupied, injured or destroyed, or purchased or received such real or personal estate as aforesaid, the Defendant or Defendants shall be held to Bail; and if any such Action shall be brought in any inferiour Court within this state, the same shall be finally determined in such court, and every such Action shall be considered as a transitory Action. That no Defendant or Defendants shall be admitted to plead, in justification, any military Order or Command whatever, of the enemy, for such occu-

pancy, injury, destruction, purchase or receipt, nor to give the same in evidence on the general issue.

Your Secretary has reason to believe that this is the first and only Act of the kind that ever was passed by any Legislature or Sovereign. Neither the laws nor the practice of Nations (as far as your Secretary has knowledge of them) afford any countenance or Colour to an opinion that after a war has been terminated by a treaty of peace solemnly made and ratified, either of the late belligerent powers or their respective Citizens have a right to commence and prosecute actions at law against the Soldiers, Subjects or Adherents of the other for damages by them done during the war, and in the course of invasions and hostilities by military Order. Such an opinion appears to your Secretary to be so destitute of even resemblance to reason, that a particular exposition of its demerits would be an unnecessary, and therefore an improper application of time and attention. In a word, this Act is, in his opinion, a direct violation of the treaty of peace, as well as of the acknowledged Laws of Nations. But it is not true that this act does "authorize the sequestration of the estates of british Subjects lying in this Country for their conduct during the War," as the list of grievances very improperly asserts.

It is said that this Act was confirmed by others in 1784 and 1785, but they are not described either by their titles or Contents.

Your Secretary finds one passed the 12th May, 1784, entitled "An Act to preserve the freedom and independence of this State, and for other purposes therein mentioned," which in his opinion is very exceptionable. It is as follows:

Whereas it is of great importance to the safety of a free Government, that persons holding principles inimi-

eal to the constitution should not be admitted into Offices or places of trust, whereby they might acquire an immediate influence in the direction of its Councils: And Whereas some of the Citizens of this State, entertaining sentiments hostile to its independence, have taken an active part in the late War, in opposition to the present government, and it would be improper and dangerous that such persons should be suffered to hold or enjoy any such office or place or trust within this State: And Whereas it is the duty of the Legislature to pursue every reasonable and proper measure to secure the government from being disturbed and endangered:

Be it therefore enacted by the people of the State of New York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That all and every person or persons, Natives or others, who being resident in this State, or any other of the United States, on the Ninth day of July, in the year of our Lord 1776, and who have at any time since the said ninth day of July, in the year of our Lord 1776, accepted, received, held or exercised any *Military Commission* or Commissions whatsoever, by or under any authority derived from the King of Great Britain; and every person or persons who being resident within this State, or any other of the United States as aforesaid, on the ninth day of July, 1776, aforesaid, who have owned or fitted out, or have been concerned in fitting out any privateer or privateers, or Vessels of War, to cruise against or commit Hostilities upon the vessels, property and persons of any of the Citizens of the United States, or against their Allies; and every person or persons whatsoever, who being resident in this State, or any other of the said United States, on the 9th day of July, in the year of our Lord, 1776, aforesaid, who

have served on board such privateers or Vessels of War, in the condition or Capacity of Captain, Lieutenant or Master; and also every person or persons who being resident in this State, or any other of the United States, on the ninth day of July, 1776, aforesaid, and who since that time have accepted, held or exercised any Office, Commission or appointment, in the board or boards of police, instituted and established in the Southern district of this State during the late war, by virtue of, and under authority derived from the King of Great Britain; and also every person or persons whatsoever, who being resident in this State, or any other of the United States, on the 9th day of July, in the year 1776, aforesaid, and who since that time have accepted, received, held or exercised any Office, Commission or Appointment whatsoever, in the Court of Admiralty instituted and established in the Southern district of this State, during the late War, by virtue of authority derived from the King of Great Britain as aforesaid; and also all and every person or persons whatsoever, who being resident in any of the United States, except this State, on the ninth day of July, 1776, aforesaid, and who at any time since that day and during the late war, have fled or removed from such of the said States, of which such person or persons were respectively resident on the ninth day of July aforesaid, and who have gone over to, joined, or put himself or themselves under the power and protection of the fleet or armies of the King of Great Britain aforesaid; and all and every person and persons who being resident in this State on the 9th day of July, 1776, aforesaid, and who since that day have voluntarily gone over to, remained with, or joined the fleets and Armies of the king of Great Britain aforesaid, at any time during the

late war, who has or have left this State on or before the 10th day of December, in the year of our Lord, 1783, and who have not returned, and who shall hereafter be found within this State; such person or persons so found, shall be, on conviction thereof, adjudged guilty of Misprision of Treason.

Provided always, that nothing in this Act contained shall be taken or deemed to affect any person who at the time of committing any of the offences aforesaid, was a Minor under sixteen years of age, or a person insane.

And provided also, that it shall and may be lawful for any such person or persons, whose estates respectively may be attached by any law of this State, and advertisement made thereof agreeable to such law, to come and remain within this State for so long a time as may be absolutely necessary to defend his, her or their suit; any thing in this Act to the contrary thereof in any wise notwithstanding.

And be it further enacted by the authority aforesaid, That all and every person or persons falling under any of the descriptions herein beforementioned, and the descriptions mentioned in the twelfth section of the Act entitled, "An Act to regulate elections within this state," passed the 27th day of March, 1778, and who has or have not left this state, are hereby for ever disqualified and rendered incapable of holding, exercising or enjoying any legislative, judicial or executive Office or place whatsoever within this State, and shall and hereby is and are for ever disqualified and incapacitated to elect or vote, either by ballot or viva voce, at any election to fill any Office or place whatsoever, within this State; and if any person shall offer himself as an Elector, at any election hereafter to be holden for an Office or place within this State, and shall be sus-



pected of, or charged to be within any of the descriptions aforesaid, it shall be lawful for the Inspectors or Superintendants (as the case may be) to inquire into and determine the fact whereof such person shall be suspected, or wherewith he shall be charged as the cause of disqualification aforesaid, on the Oath of one or more Witness or Witnesses, or on the oath of the party so suspected or charged, at their discretion; and if such fact shall, in the judgment of the Inspectors or Superintendants, be established, it shall be lawful for them, and they are hereby required to reject the vote of such persons at such Election.

Provided always, that if it shall appear to the satisfaction of the Inspectors or Superintendants at any election, that any person offering himself as an elector, has during the late War, within the Southern District, by fear or compulsion, accepted, held or exercised any such Office, Commission or Appointment, or may have involuntarily done any Act or Acts which by the said section would have disqualified him from holding any Office, or from being an elector, had the same been voluntarily done, and that such person otherwise has uniformly behaved as a friend to the freedom and independence of the United States, the Inspectors shall admit such person to give his vote at any such election, any thing in this Act to the contrary notwithstanding.

Whereas a very respectable number of Citizens of this State, well attached to the freedom and independence thereof, have entreated the legislature to extend mercy to persons hereinafter mentioned, and to restore them to their Country:

Be it therefore enacted by the authority aforesaid, That Gysbert Marselius, Henry Staats, John Stevenson, Henry Vandyck, John Vanallen, Henry Vanschaack,

David Vanschaack, Harman Pruyn, William Rea, Myndert Viele, William Lupton, Cadwallader Colden, Walter Dubois, Cornelius Luyster, Andrew Graham, John Thurman, Samuel Fowler, Joseph Mabbit, John Green, Dirck Vanvleet, Jost Garrison, John Booth, Rolef Etting, Solomon Etting, Richard Harrison, James Smith and Benjamin Lapham, shall be, and every of them are hereby permitted to return to, and reside within this State, without any molestation, and therein to remain until the end of the next meeting of the Legislature, or until further legislative provision shall be made in the premises, any thing in the Act entitled, "An Act more effectually to prevent the mischiefs arising from the influence and example of persons of equivocal and suspected Characters in this State," passed the 30th day of June, 1778, to the contrary thereof in any wise notwithstanding.

This intemperate Act was passed after the treaty had been ratified by both Nations, and most clearly violates the 6th Article in various respects too obvious and decided to require enumeration or discussion.

Your Secretary has reason to believe that there are some other Acts not particularized in the list of Grievances, which, on being compared with the treaty, would appear in some respects inconsistent with it; but as the principles applied by this report to the other Acts, will also apply to all of the like kind, he thinks the investigation may here be concluded with propriety.

From the foregoing review of the several Acts complained of, it is manifest, that the 4th and 6th Articles of the treaty have been violated by certain of them.

The next inquiry in order seems to be, Whether these violations can be justified or excused by any prior ones on the part of Britain?

There is no doubt but that Britain has violated the 7th Article, which provides "that his Britannic Majesty shall with all convenient speed, and without causing any destruction, or carrying away any Negroes, or other property of the American Inhabitants, withdraw all his Armies, garrisons and fleets from the said United States, and from every post, place and harbour within the same."

The Violations of this Article alluded to, are these, viz<sup>t</sup>

1. That on the evacuation of New York, Negroes belonging to American Inhabitants were carried away.

2. That his britannic majesty's Garrisons have not been withdrawn from, but still keep possession of certain posts and places within the United States.

With respect to the Negroes, it may be proper to distinguish them into *three* Classes.

1. Such as in the course of the War were captured and disposed of as booty by the Enemy.

2. Such as remained with and belonged to American Inhabitants within the british lines.

3. Such as, confiding in proclamations and promises of freedom and protection, fled from their Masters without, and were received and protected within, the british Camps and lines.

The stipulation, "not to carry away any Negroes or other property of the American Inhabitants," cannot in the opinion of your Secretary be construed to extend to, and comprehend the *first* Class. By the laws of war all goods and Chattels captured and made booty *flagrante Bello*, become the property of the Captors. Whether men can be so degraded as under any circumstances to be with propriety denominated Goods and Chattels, and under that idea capable of becoming booty, is a ques-

tion on which opinions are unfortunately various, even in Countries professing Christianity and respect for the rights of mankind. Certain it is that our Laws assert, and Britain by this Article as well as by her practice admits, that Man may have property in Man. If so, it is fair reasoning to conclude that this like other moveable property is capable of changing Owners by capture in War. The Article places "Negroes and other property of the American Inhabitants" on the same footing; so that if it means that Captured Negroes shall not be carried away, it must also mean that no other captured property shall be carried away, which would in other words amount to an agreement that the british fleet and Army should leave behind all the booty then in this Country, which they had taken from the American Inhabitants at any period of the War. It would be a task beyond the abilities of your Secretary to raise such a construction of the Article on any principles capable of supporting it.

As to the *Second Class*, to wit, such as belonged to and remained with American Inhabitants within the british lines, they seem clearly to be within the design and meaning of the Article; for as the enemy had never taken them from their Masters, nor treated them as booty, the property remained unchanged; and the like reasoning applies to all other Negroes kept as Slaves within their lines, and respecting whom the enemy had done no Act which divested their Masters of the property.

Your Secretary also thinks that the *third Class* are clearly comprehended in the Article, and for the same reason, *Viz*<sup>t</sup> because they still remained as much as ever the property of their Masters. They could not by merely flying or eloping extinguish the right or title of

their Masters; nor was that title destroyed by their coming into the enemy's possession, for they *were received, not taken* by the enemy; they were received not as Slaves but as friends and freemen; by no Act, therefore, either of their own or of their friends, was the right of their Masters taken away; so that being the property of American Inhabitants, it was an infraction of the 7th Article of the treaty to carry them away.

Whenever the conduct of Nations or of Individuals becomes the subject of investigation, truth and candor should direct the enquiry. The circumstances under which these last mentioned Negroes were carried away make a strong impression on the mind of your Secretary, and place that transaction before him in a point of view less unfavourable to Britain than it appears in to his Countrymen in general. He is aware he is about to say unpopular things; but higher motives than personal considerations press him to proceed.

If a War should take place between France and Algiers; and in the course of it France should invite the American Slaves there to run away from their Masters, and actually receive and protect them in their Camp, what would Congress, and indeed the world, think and say of France, if, on making peace with Algiers, she should give up those American Slaves to their former Algerine Masters? Is there any other difference between the two cases than this, Viz<sup>t</sup> that the American Slaves at Algiers are *white* people, whereas the African Slaves at New York were *Black* people?

It may be said that these remarks are made out of season; for whether they be well or ill founded, the fact is, that Britain expressly agreed to give them up, and therefore ought to have done it.



How far an obligation to do wrong may, consistent with morality, be so modified in the execution as to avoid doing injury, and yet do essential justice, merits Consideration. By this agreement Britain bound herself to do great wrong to these Slaves; and yet by not executing it she would do great wrong to their Masters. This was a painful dilemma; for, as on the one hand, she had invited, tempted and assisted these Slaves to escape from their Masters, and on escaping had received and protected them, it would have been cruelly perfidious to have afterwards delivered them up to their former bondage, and to the severities to which such Slaves are usually subjected; so on the other hand, after contracting to leave these Slaves to their Masters, then to refuse to execute that Contract, and in the face of it to carry them away, would have been highly inconsistent with justice and good faith. But one way appears to your Secretary in which Britain could extricate herself from these embarrassments, that was, to keep faith with the Slaves by carrying them away, and to do substantial justice to their Masters by paying them the value of those Slaves. In this way neither could have just cause to complain; for although no price can compensate a Man for bondage for life, yet every Master may be compensated for a runaway Slave.

In the opinion therefore of your Secretary, Great Britain ought to stand excused for having carried away these Slaves, provided she pays the full value of them; and on this he thinks the United States may with great propriety and justice insist. Indeed there is an intimation in one of Mr. Adams's Letters, that the British Minister did not object to it.

But however capable of palliation the conduct of Britain respecting these Negroes may be, it unquestionably was an infraction of the 7th Article.

It is equally clear, that her continuing to hold the posts from which by that Article she agreed to withdraw her Garrisons, is also a decided violation of the Treaty.

It appears, then, that there are violations of the Treaty justly chargeable on both parties; but as the present inquiry is, whether our violations can be justified by antecedent ones on the part of Britain, their respective dates must be ascertained.

It is but just to observe, that Britain withdrew her fleet and Army from New York before the treaty was ratified. She evacuated that place on the 25th November, 1783; and it was not until the next year that the treaty was ratified.

The first violation that (to the knowledge of your Secretary) we complain of, happened when the British forces left New York; for they then carried away with them the Negroes in question; so that the first violation on the part of Britain was on the 25th November, 1783.

The famous trespass Act of New York was passed 17th March, 1783, and is still in force.

The Act of Pennsylvania, which impeded the recovery of british debts, was passed 12th March, 1783.

The Ordinance of South Carolina for disposing of certain estates, &c. was passed 17th March, 1783.

All these acts were in force on and long after the day of the date of the treaty, Viz<sup>t</sup> 3d September, 1783.

In whatever light, therefore, deviations from the Treaty prior to its final conclusion and ratification may be viewed, it is certain that deviations on our part preceded any on the part of Britain; and therefore instead of being justified *by* them, afford excuse *to* them.

As to the detention of our posts, your Secretary thinks that Britain was not bound to surrender them until we had ratified the treaty. Congress ratified it 14th January, 1784, and Britain on the 9th April following. From that time to this, the 4th and 6th Articles of the treaty have been constantly violated on our part by legislative Acts then and still existing and operating.

Under such circumstances, it is not a matter of surprize to your Secretary that the posts are detained; nor in his opinion would Britain be to blame in continuing to hold them until America shall cease to impede her enjoying every essential right secured to her, and her people and Adherents, by the treaty.

Your Secretary has heard another reason or excuse assigned to justify deviating from the 4th Article, and restraining british Creditors in the recovery of their debts, Viz<sup>t</sup> that by giving time to the Debtor, he became more able to pay the debt; and as that additional ability was a benefit to the Creditor, the latter ought not to complain of the restraint which produced it.

Although this argument may be somewhat ingenious, it unfortunately proves too much. By the treaty a british Creditor has a right to sue when he pleases; and by the common law a Farmer has a right to plough when he pleases, a Merchant to send out his vessels when he pleases, and every man to eat and drink when he pleases.

Admit that a british Creditor would do better to delay his Suits, that a Farmer was about to plough in an improper manner or season, that a Merchant had ordered his Vessels to sea when a hurricane was expected, or that a certain gentleman injured his health by intemperance; admit these facts; would it thence follow, that

every or any good natured officious man, who might think himself more judicious and prudent, has a right to hinder the Creditor from Suing, the Farmer from ploughing, the Merchant from despatching his Vessels, or the *bonvivant* from indulging his Appetite? Surely not.

In short, as your Secretary is uninformed of any facts or matters that can justify the violations on our part, the only question which seems to remain to be considered is,

What is to be done?

The United States in Congress assembled have neither committed, nor approved, of any violation of the treaty. To their conduct no exceptions are taken; but to their justice an appeal is made relative to the conduct of particular States. The United States must, however, eventually answer for the conduct of their respective Members; and for that, and other reasons suggested by the nature of their Sovereignty and the Articles of Confederation, your Secretary thinks they have good right to insist and require that National faith and National treaties be kept and observed throughout the Union; for otherwise it would be in the power of a particular State, by injuries and infractions of treaties, to involve the whole Confederacy in difficulties and War.

In his opinion it would highly become the dignity of the United States to act on such occasions with the most scrupulous regard to justice and Candor towards the injured Nation, and with equal moderation and decision towards the delinquent State or States.

In the present case he thinks it would be proper to resolve,

1. That the Legislatures of the several States cannot of right pass any Act or Acts for interpreting, explaining or construing a National treaty, or any part or

Clause of it; nor for restraining, limiting or in any manner impeding, retarding or counteracting the operation or execution of the same; for that on being constitutionally made, ratified and published, they become, in virtue of the Confederation, part of the law of the land, and are not only independent of the will and power of such Legislatures, but also binding and obligatory on them.

2. That all *such* Acts or parts of Acts as may be now existing in either of the States, repugnant to the treaty of peace, ought to be forthwith repealed; as well to prevent their continuing to operate as violations of that treaty, as to avoid the disagreeable necessity there might otherwise be of raising and discussing questions touching their validity and obligation.

3. That it be recommended to the several States, to make such repeal rather by describing than reciting the said Acts; and for that purpose to pass an Act, declaring in general terms, that all such Acts and parts of acts repugnant to the treaty of peace between the United States and his britannic Majesty, or any Article thereof, shall be and thereby are repealed; and that the Courts of law and equity in all Causes and questions cognizable by them respectively, and arising from or touching the said treaty, shall decide and adjudge according to the true intent and meaning of the same, any thing in the said Acts or parts of Acts to the contrary thereof in any wise notwithstanding.

The two first of these proposed resolutions do not appear to your Secretary to require any Comments.

He thinks the third would be expedient for several reasons:

As it is general, and points at no particular State, it cannot wound the feelings of any.



The general Law it recommends he thinks preferable to a minute enumeration of the exceptionable Acts and Clauses, because either omissions might accidentally be made in the enumeration, or questions might be agitated, and perhaps improperly determined, respecting this or that Act or Clause which some may think exceptionable, and others not. By repealing in general terms, and obliterating all exceptionable Acts and Clauses as it were by one stroke of the pen, the whole business will be turned over to its proper department, viz. to the judicial; and the Courts of law will find no difficulty in deciding whether any particular Act or Clause is or is not repugnant to the treaty. When it is considered that the Judges in general are Men of Character and learning, that they stand in responsible situations, and feel as well as know the obligations of Office and the value of reputation, there is reason to presume that their conduct and judgments relative to these as well as other judicial matters will be wise and upright.

Your Secretary also thinks, that in case these resolutions should be adopted, it would be proper that a circular letter from Congress should accompany Copies of them to the States; but as the forming a draft or plan of such a Letter, seems not to belong to the department of *foreign* Affairs, he forbears to report one.

He is further of opinion, that a Copy of this report should be transmitted to the Minister plenipotentiary of the United States at the Court of London for his information; and that he be instructed candidly to admit that the 4th and 6th Articles of the treaty have been violated in America, as well as the 7th has on the part of Great Britain.

That he inform his britannic Majesty that the United States are taking effectual measures for removing all cause of complaint on their part.

That he also be authorized to propose and conclude, in the name and behalf of the United States, a Convention with his Majesty, whereby it shall be agreed, that the value of the Negroes, or other American property carried away contrary to the 7th article, be estimated by Commissioners, and paid for; and that the said payment, together with a surrender of all the posts and places now held by his Majesty within the limits of the United States, shall be within           Months after all the Acts and parts of Acts existing in the several States, and which violate the treaty, are repealed, and due notice thereof given.

That he be also instructed to assure his Majesty that it will always give pleasure to Congress fairly and candidly to discuss and accommodate every difference or Complaint that may arise relative to the construction or to the performance of the treaty. That they are determined to execute it with good faith; and that as this is the only instance in which any Complaints of that kind have ever come regularly before them, they flatter themselves that the frankness and Candor of their conduct on this Occasion will create in him the same confidence in the purity of their intentions, which they repose in his assurance, "that whenever America shall manifest a real determination to fulfil her part of the treaty, Great Britain will not hesitate to co-operate in whatever points depend upon her for carrying every Article into real and complete effect."

It might also be well to instruct Mr. Adams to endeavour to have an Article inserted in the Convention for the remission of the interest, or a proportion of it, which became due on private Contracts during the War; but your Secretary apprehends, from the general and great impropriety of such interference with private Contracts, that his endeavours would be fruitless.

He also thinks it might be proper to instruct Mr. Adams to obtain, if possible, an Article to fix the true construction of the declaration for ceasing Hostilities, and stipulating that compensation be made for all Captures contrary to it; but he likewise fears that as this may be considered as a judicial question, and as the balance of the Captures so circumstanced is in favor of Britain, that her consent to such an Article would not be easy to obtain.

It appears to your Secretary that this system ought to give perfect satisfaction to the Court of London, unless perhaps in one point, viz<sup>t</sup> that the Individuals who have suffered by our violations are left without compensation for their losses and sufferings.

Although strict justice requires that they who have wrongfully suffered should as far as possible receive retribution and Compensation, yet as it would be very difficult, if practicable, to prevail on the States to adopt such a measure, he thinks it best to be silent about it, especially as the United States have neither the power nor the means of doing it without their concurrence.

Besides, as the detention of the posts has been and continues injurious to the United States, the Consequences of their respective violations may be set against each other; and although the account may not be exactly balanced, yet it cannot be well expected that in affairs of such magnitude, the same regard can be had to minutia<sup>e</sup> as in transactions between Individuals.

This report is on a subject no less new and singular than important. Your Secretary is not conscious of any errors in it; and yet there may be some. He hopes the facts are not mistaken or misstated. He believes his reasoning on them to be just; and he flatters

himself whatever mistakes relative to either may be discovered, that they will be treated with Candor, and ascribed neither to want of attention, nor of Care, but to that fallibility, from which few, if any, even of the wisest and most able, are wholly exempt.<sup>1</sup>

BOARD OF TREASURY,  
October 12<sup>th</sup>, 1786.

The Board of Treasury to whom was referred a State of an Account of John Q. Adams against the United States, for his services as private Secretary to the Hon'ble M<sup>r</sup> Dana whilst on his Embassy to the Court of Petersburg, beg Leave to Report:

That the United States in Congress by their Act of the 22<sup>d</sup> July, 1785, Resolved "That there be allowed to M<sup>r</sup> Dana, his necessary expence for a private Secretary whilst on his embassy to the Court of Petersburg."

That the Officers of the Treasury do not conceive themselves authorised to determine under the above resolve the amount of such necessary expence.

That the United States in Congress by their Acts of the 24<sup>th</sup> May, 1780, and 30<sup>th</sup> June, 1786, have allowed to two Gentlemen employed in the same capacity with M<sup>r</sup> J. Q. Adams, at the rate of Three hundred pounds sterling per Annum during the Time they respectively officiated,

That this Board presume therefore that Congress judged the above allowance proper for the service and necessary expence of a person acting in the Capacity of a private Secretary to a Foreign Minister—and as it appears that M<sup>r</sup> J. Q. Adams was employed as a private Secretary to M<sup>r</sup> Dana from the 1<sup>st</sup> July, 1781, to the 21<sup>st</sup> April, 1783, the Board submit to the consideration of Congress the following Resolve, viz<sup>t</sup>:

That there be allowed to M<sup>r</sup> Francis Dana the sum of Two thousand four hundred and ten Dollars  $\frac{3}{10}$ <sup>ths</sup> of a Dollar, in full for the service and expence of a private Secretary by him employed, whilst on his

<sup>1</sup> This proceeding is entered by Benjamin Bankson only in *Secret Journal, Foreign*, No. 5. See *post*, October 16.

Embassy at the Court of Petersburg, from the 1<sup>st</sup> of July, 1781, to the 21<sup>st</sup> April, 1783.

All which is most humbly submitted.<sup>1</sup>

BOSTON, 8<sup>th</sup> October, 1786.

SIR: I had the honor to address your Excellency from Springfield on the 3<sup>rd</sup> instant immediately after which, I came to this place in order to concert with the Governor, the most proper measures for the security of the federal magazine at Springfield. He and those gentlemen, connected in the affairs of Government, with whom he consulted confidentially on the occasion, are unanimous in their opinions, that the stores ought to be protected in their present situation, by the highest exertions.

But a considerable body of troops being essential for this purpose, it is an extremely difficult point to assemble them without alarming the malcontents, an event to be avoided if possible, as it would probably precipitate them to attempt seizing the Magazine. There are abundant reasons to believe they have decided on this measure when their other designs shall be sufficiently matured.

If any eligible plan can be devised, I shall immediately inform your Excellency thereof in order that it may be submitted to Congress for their approbation or otherwise. But it is doubtful in the present convulsed State of this government whether any effectual measures can be adopted for the protection of the Stores in their present situation, unless powerfully assisted by the United States. As soon as this business can be brought to any tolerable issue I shall repair to New York.

I have the honor to be etc.,

H. KNOX.<sup>2</sup>

<sup>1</sup> This report, signed by Samuel Osgood, Walter Livingston, and Arthur Lee, is in the *Papers of the Continental Congress*, No. 138, I, folio 25. According to indorsement it was read this day and passed October 2, 1787. The accounts are on folios 29-35.

<sup>2</sup> This letter is in the *Papers of the Continental Congress*, No. 150, II, folio 17. According to indorsement it was read Oct. 13.

Also was read a petition from Abraham Whipple, praying a settlement of his accounts. It is in No. 42, VIII, folio 369. See *post*, October 16.



MONDAY, OCTOBER 16, 1786.

Congress assembled. Present, Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Virginia, South Carolina and Georgia.

Congress resumed the consideration of the Ordinance for the establishment of a Mint, and the same being read a third time, was passed as follows:

<sup>1</sup> An Ordinance for the establishment of the Mint of the United States of America, and for regulating the value and alloy of Coin.

It is hereby ordained by the United States in Congress assembled, that a Mint be established for the coinage of gold, silver and copper money, agreeably to the Resolves of Congress of the 8th August last, under the direction of the following officers, viz.

An *Assay Master*, whose duty it shall be to receive gold and silver in bullion, or foreign coin, to assay the same and to give his certificates for the value thereof at the following rates:

For every pound troy weight <sup>2</sup> of uncoined gold or foreign gold coin, eleven parts fine and one part alloy, two hundred and nine dollars, seven dimes and seven cents, Money of the United States, as established by the resolves of Congress of the 8th of August last, and so in proportion to the fine gold contained in any coined or uncoined gold whatsoever.

For every pound troy weight of uncoined silver, or foreign silver coin, eleven parts fine and one part alloy, thirteen dollars, seven dimes seven cents and seven mills, Money of the United States, established as aforesaid; and so in proportion to the fine silver contained in any coined or uncoined silver whatsoever.

A *Master coiner*, whose duty it shall be to receive, from time to time, of the assay master, the bullion necessary for coinage; to report to Congress devices and proofs of the proposed pieces of coin, and to procure proper workmen to execute the business of coinage, reporting, from time to time, to the Commissioners of the board of treasury of the United States for approbation, and allowance, the occupation, number and pay of the persons so employed.

<sup>1</sup> Benjamin Bankson here takes up the entry.

<sup>2</sup> Charles Thomson here resumes the entry.

A *Paymaster*, who shall be the treasurer of the United States for the time being, whose duty it shall be to receive and take charge of the coin made under the direction of the Master-coiner, and to receipt for the same; to receive and duly enter the certificates for uncoined gold or silver issued by the Assay master, and to pay ninety-five hundredths of the amount thereof in gold or silver, and five-hundredths in the copper coin of the United States.

And it is hereby further Ordained, That the certificates to be given by the Assay master, to persons who shall lodge gold or silver in the Mint for coinage, shall be on fine blank paper, and expressed in the manner and form following, to wit:

MINT OF THE UNITED STATES.

I acknowledge to have received of A. B. for coinage, [here insert the weight] of [here insert the species] bullion, for the Amount of which pay to            or bearer, the sum of            at ten days sight, agreeably to the custom of the Mint.            C. D. Assay Master.

To E. F. Pay Master of the Mint of the United States of America.

And it is hereby further Ordained, That the Officers above mentioned, shall settle their accounts monthly, agreeably to such forms and vouchers as shall be prescribed by the Comptroller of the treasury.

And it is hereby further Ordained, That the Officers shall enter into bonds to the United States in Congress assembled, for the faithful execution of the trust respectively reposed in them, in the manner and amount following, viz.

The Assay Master, in the sum of ten thousand dollars, and two sureties, each in the sum of five thousand dollars.

The Master Coiner, in the sum of ten thousand dollars, and two sureties, each in the sum of five thousand dollars.

And that the Officers mentioned in this Ordinance, as well as every other person employed in the Mint, shall take and subscribe the Oath of Office, established by the resolve of the 14th March, 1786.

And it is hereby further ordained, That it shall be the duty of the comptroller of the treasury to report monthly to the Commissioners of the treasury of the United States, a statement of the mint Accounts adjusted agreeably to the usual forms; and if on such statement or other information it shall appear, that there has been any neglect, mismanagement or abuse of trust, in any of the Officers mentioned in

the within Ordinance, it shall be the duty of the commissioners of the board of treasury to suspend such officer or officers, and to report thereon specially to Congress.

And it is hereby further ordained, That the copper coin struck under the Authority of the United States in Congress assembled, shall be receivable in all taxes, or payments due to the United States, in the proportion of five dollars for every hundred dollars so paid; but but that no other copper coin whatsoever, shall be receivable in any taxes or payments whatsoever to the United States.

And whereas, The great quantities of base copper coin daily imported into, or manufactured within the several states, is become so highly injurious to the interest and commerce of the same, as to require the immediate interposition of the powers vested by the Confederation in the United States in Congress assembled, of regulating the value of copper, the coin so current as aforesaid;

It is hereby Ordained, That no foreign copper coin whatsoever, shall, after the first day of September, 1787, be current within the United States of America: And that no copper coin struck under the Authority of a particular state, shall pass at a greater value than one federal dollar for two pounds and one quarter of a pound, avoirdupois weight, of such copper coin. Done by the United States in Congress assembled.

On a report of the board of treasury, to whom was referred a letter of the 30 November, 1785, from Messrs. Schweighouser and Dobre, of Nantes, in behalf of the late Daniel Schweighouser,

The Board of Treasury to whom was referred a Letter of the 30th November, 1785, from Mess<sup>rs</sup> Schweighouser & Dobre of Nantes, in behalf of the late M<sup>r</sup> Daniel Schweighouser, beg leave to Report:

That the Claim of the late M<sup>r</sup> Schweighouser against the United States, is stated to the 31<sup>st</sup> December, 1785, to be Livres 40,245:10:5.

Of which are charged on account of Disbursements on the Frigate

<i>Alliance</i> .....	31, 668:12:3
For Interest on the above sum to 31 <sup>st</sup> Dec <sup>r</sup> .....	8, 576:18:2

As above.....	40, 245:10:5
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That by an Account transmitted on the 14<sup>th</sup> May last by M<sup>r</sup> Thomas Barelay, Commissioner for Settling the Public Accounts in Europe; the said Commissioner charges the late House of Daniel

Schweighouser of Nantes, with a Balance due to the United States of Livres 5,441:8:8.

That the difference in Statement, arises from the whole Amount of Principal and Interest charged for Advances on the Frigate *Alliance*; and for other objects particularly specified in M<sup>r</sup> Barclay's Letter of the 14<sup>th</sup> May, last.

That in consequence of the Claim above mentioned, which (for Reasons, of which we are not competent to form a judgment) was objected to by Doctor Franklin, an Attachment has been laid by the said House on the property of the United States, in the hands of the Claimants; the issue of which has not (as this Board has been informed) been determined on; neither has any measure been adopted in pursuance of the Resolve of Congress of the 23<sup>d</sup> August, 1781, to Adjust the Accounts of the late M<sup>r</sup> Schweighouser, and to pay the Balance which might be found due.

That in the Opinion of this Board, the Character and Interest of the United States, are concerned in bringing the matter in controversy to as speedy an Issue as possible. For this purpose they submit to the consideration of Congress the following Resolve.<sup>1</sup>

October 13<sup>th</sup>, 1786

*Resolved*, That the minister plenipotentiary of the United States at the court of France be and he is hereby authorised and directed to cause the claim of the representatives of the late Daniel Schweighouser, of Nantes, against the United States of America, to be adjusted in such manner as he shall judge most for the interest and honor of the said states; and that the property of the United States in the custody of the above mentioned party claimant, be applied towards the discharge of the balance, if any, which shall be found due, so far as the same may be necessary, on such principles as shall be agreed on betwixt the said minister plenipotentiary and the above claimants.

<sup>1</sup> This report, signed by Samuel Osgood, Walter Livingston, and Arthur Lee, is in the *Papers of the Continental Congress*, No. 138, II, folio 577. According to *Committee Book No. 189*, it was rendered and passed October 16. The resolve and order were adopted *verbatim* and are entered on the Journal above. A copy, in French, of a statement of the case, with a copy, in English of the resolve of this date, is in No. 59, IV, folio 335.



*Ordered*, That the board of treasury transmit a copy of the above resolve to the Minister plenipotentiary of the United States at the court of France, together with such documents relative to the said claim as they may judge necessary.

[Motion of Mr Pettit]

Whereas by the Ordinance passed the \_\_\_\_\_ Day of \_\_\_\_\_ the Commissioners appointed under the Resolutions of the \_\_\_\_\_ of Feb<sup>y</sup>, 1782, are to continue in Office till the 1<sup>st</sup> Day of April, next, and that those appointed for the States of North Carolina and Georgia are to continue in Office for such longer Time, not exceeding six Months, as the Board of Treasury shall direct, for the purpose of settling the Claims of Individuals.

And whereas divers Claims of Individuals in other States are precluded from a Settlement by the said Comm<sup>rs</sup> by the Resolution of the \_\_\_\_\_ of March, 1785, prohibiting the Reception of such Claims for examination other than in the general Office of the Treasury and it is just and reasonable that the said Commissioners should be authorized to receive and adjust the said Claims as far as may be practicable within the Time of their Continuance in Office: Therefore

*Resolved*, That the Commissioners appointed in the several States for adjusting the claims of Individuals against the U. States be authorized and directed to receive such claims for settlement until the 1<sup>st</sup> Day of March, next, the aforesaid Resolution of the \_\_\_\_\_ of March, 1785, notwithstanding.<sup>1</sup>

The Commissioner of Accounts for the Hospital Department, to whom was referred the Memorial of Dr. David Oliphant begs leave to report:

That altho' Dr. Oliphant produces a Commission appointing him Director General of the Hospitals in Carolina your Commissioner does not think himself warranted in considering him in any other light than as Director in a Department, because upon the most careful examination of the several Arrangements of Congress no such appointment appears to have been made nor any such Officer established by them, hence it is presumed, the Commission was transmitted with

<sup>1</sup> This motion, in the writing of Charles Pettit, is in the *Papers of the Continental Congress*, No. 36, III, folio 311. According to indorsement it was offered October 16, referred to the Board of Treasury to report and reported February 12, 1789.



other blank Commissions for the Troops and filled up in Carolina contrary to the then existing arrangements of Congress for the Hospital Department, the Pay however is the same in either capacity untill the arrangement of 1777 and therefore until then, the matter is not worth a question.

That in whatever capacity Dr. Oliphant is considered previous to the 7th April, 1777, the System established by the arrangement of that date appears to your Commissioner clear and explicit that there should be one *Director General* throughout the United States and a *Deputy Director General* in each Department where it was necessary an Hospital should be established nor does your Commissioner conceive that the Resolution of 25<sup>th</sup> february, 1780, can be considered as recognizing Dr. Oliphant in an Office which Congress never had established.

The accounts of Dr. Oliphant as Director under the first, and Deputy Director General under the second Hospital Arrangement, have been stated and settled, and your Commissioner Submits—

That it does not appear by the several Resolutions relative to the Hospital Department that Dr. Oliphant is entitled to any further allowance of Pay than has been made to him in the settlement of his Accounts.

BEN WALKER,  
*Commr.*<sup>1</sup>

Office of Accounts,  
Hospital Department.  
Oct. 12, 1786.

<sup>1</sup> This report is in the *Papers of the Continental Congress*, No. 31, 153. According to indorsement it was read October 16, 1786, and referred to Mr. [Nathan] Dane, Mr. [Charles] Pettit and Mr. [Charles] Pinckney. Roger Alden has indorsed this report: "See Act of Congress August 25<sup>th</sup>, 1788."

OCTOBER 16: The following committees were appointed:

Mr. [Charles] Pinckney, Mr. [Charles] Pettit, Mr. [John] Henry, Mr. [Nathan] Sedgwick, and Mr. [Edward] Carrington "To draft an Ordinance for carrying into effect the Imp. System of 18 Ap. 1783" etc. This was a renewal of the committee of July 27. See *ante*, July 27 and August 8. This committee was discharged February 12, 1787.

Mr. [Nathan] Dane, Mr. [Charles] Pettit, Mr. [John] Henry, Mr. [Lambert] Cadwallader, and Mr. [Edward] Carrington, on "Report of Secy. for foreign Affairs on Mr. Adams letter touching infraction of treaty." This committee was renewed February 12, 1787.

TUESDAY, OCTOBER 17, 1786.

Congress assembled. Present as yesterday.

On motion of Mr. [Charles] Pinckney, seconded by Mr. [Melancton] Smith,

*Resolved*, That the assay master, to be appointed under the Ordinance passed yesterday for the establishment of a mint for the United States, shall be allowed six hundred dollars, and the Master coiner one thousand dollars per annum.

*Resolved*, That Monday next be assigned for the election of the officers above mentioned.

On motion of Mr. [Henry] Lee, seconded by Mr. [Melancton] Smith,

*Ordered*, That the board of treasury transmit to the several states the requisition for the year 1786, passed the 2d August last; and that the board also transmit an accompanying state of the receipts and expenditures to the 30th of June last, the balances then due, together with an estimate of the accumulation of the public debts by a failure in complying with the requisitions heretofore made.

ADDRESS TO THE SEVERAL LEGISLATURES TO ACCOMPANY THE REQUISITION OF 1786.

Impressed with a sense of the sacred trust committed to them and with an Anxious and affectionate concern for the interest, honor and safety of their constituents, The United States in Congress assembled

Also, the "Petition of Hoysted Hacker on construction of resolve of 11 July, 1778" was referred to the Commissioner of Marine Accounts to report, the Secretary of Congress having recommended this action on October 14, on which date he also recommended that Whipple's petition be referred to the Board of Treasury to report.

Also, the "Petition of A. Whipple to be paid 3,770 dollars" was referred to the Board of Treasury to report and report rendered October 21.

Also, a "Motion of Massachusetts for extending the time for paying in Certificates beyond the time limited by the requisition of Sept 1785." was referred to the Board of Treasury to report and report rendered October 21.

*Committee Book No. 190.*

have on various occasions pointed out the dangerous situation of this nation for want of funds to discharge the engagements which have been constitutionally made for the common benefit of the Union and have urged the adoption of such measures as upon the most mature deliberation, were judged best calculated to avert those evils which must inevitably flow from a breach of public faith and a violation of the principles of justice. It is painful to compare a situation of present distress with what might have been the direct reverse, had those measures been adopted. But as it is only by a serious examination of past errors that experience is gained and better systems adopted in the management of public affairs and that nothing may be concealed which may induce the several legislatures to investigate and pursue in future their essential interests, We have ordered the board of treasury to lay before them a state of the receipts and expenditures up to the 30 of June last, and of the balances then due, together with an estimate of the accumulation of the public debt by a failure in complying with the requisitions of Congress and particularly for want of an early and general adoption of the resolves of the 18 April, 1783.

The states will observe that in the present requisition no less than 1,723,626<sup>4</sup>/<sub>100</sub> ought to be forthwith raised for the express purpose of paying the interest and certain installments of the principal of the foreign debt which will become due in the present and in the course of the next year.

Under this heavy accumulation of the foreign debt it becomes incumbent on the several states, until a general impost or some other system of revenue adequate to the establishment of national credit and safety can be adopted, to exert themselves to fulfil that duty which they owe to their own character and the welfare of the Confederacy by enacting laws, more efficacious than those heretofore passed for bringing into the general treasury their respective quotas of the present requisition.

To effect this great and desirable object the wisdom of the respective legislatures will undoubtedly discover that the following general principles are essentially necessary.

1<sup>st</sup>. That the taxes intended for the purposes of the Union should be permanent and distinct from those which are appropriated to the service of the State.

2<sup>d</sup>. That they should (as far as is practicable) be simple in their nature and easy in the collection.

3<sup>d</sup>. That the sums levied on the individuals should be paid in like manner, as the quotas are receivable from the several States, that is to say, that the proportion of specie pointed out by the requisition should keep pace with the payment of the discounts of Interest.

An attention to these principles would undoubtedly promote in a great degree the collection of the revenue and the arrangement of the federal finances.

That a brave and enlightened people who encountered every hardship and distress in opposing a system of Government which they deemed adverse to their welfare and liberty, before they had ever experienced the mischiefs which they foresaw from its establishment, should (whilst the memory of their former principles and heroism is still fresh in their recollection) become inattentive to their own interest, their own happiness and their own honor, is a circumstance too disgraceful to admit of belief.

By the Union of the several States they have rescued themselves from the tyranny of a powerful nation and established constitutions on the free consent of the people, which are the admiration of the intelligent and virtuous parts of mankind and the firm support of the civil and religious rights of all who live under the shadow of their influence. But these constitutions cannot long outlive the fate of the general Union and this Union cannot exist without adequate funds to defray the expences of the government and to discharge those engagements which have been entered into with the concurrence of the citizens of all these States for their common benefit.

An appeal is now again made to the reason, the Justice, and the Interest of the several States. Whatever may be the fate of the measures submitted to their consideration for giving strength and reputation to the Union, the United States in Congress by virtue of the powers of the confederation call upon the different Members to pay into the general treasury at the time stipulated the quotas laid on them respectively by the present requisition for the support of the general Government.

The purposes for which the monies are to be appropriated, are fairly stated and the evils pointed out which will attend a noncompliance. The delinquent States (if such there can possibly be) must take upon themselves the responsibility for all those calamities, which



will most assuredly flow from a disregard to the political ties which unite them with the other Members of the confederacy, and to those principles of justice and good faith which can alone support the existence of a free Government.<sup>1</sup>

BOARD OF TREASURY,  
October 17<sup>th</sup>, 1786.

SIR: We have just received from the Commissioner of the Loan Office of the State of Rhode Island a Letter of the 10th instant containing some remarks on the Act of Congress of the 18th of September last relative to the late Act of the State of Rhode Island, making their paper Currency a Tender in the payment of Federal Taxes.

Though this Act does not in direct terms order a Suspension of the issue of Interest in that State; we have not Judged it adviseable to instruct the Commissioner to proceed in that Business; because it is strongly implied by the Resolves above mentioned, that the State of Rhode Island cannot be considered as having complied with the Requisition of Congress of the 27th Sept., 1785.

As Mr. Ellery represents to the Board, that his Conduct is liable to the imputation of acting, merely from his own Authority, in the Stoppage of Issuing Indents of Interest, we submit it to the opinion of the United States in Congress, whether it might not be adviseable for that Honorable Body to pass a Resolve approving of the Conduct of the Commissioner of the Loan Office in the State of Rhode Island in suspending the Issue of Indents of Interest in that State, on the Requisition of the 27th of September, 1785.

We have the Honor to be etc.<sup>2</sup>

<sup>1</sup> This report, in the writing of Charles Thomson and Roger Alden, is in the *Papers of the Continental Congress*, No. 24, 371. According to indorsement "Oct. 17, 1786 Question taken and lost."

<sup>2</sup> This report, signed by Samuel Osgood, Walter Livingston, and Arthur Lee, is in the *Papers of the Continental Congress*, No. 140, II, folio 331. According to indorsement it was read October 17 and referred back to the Board of Treasury to report. *Committee Book No. 190* notes the Board's report as rendered October 19.

OCTOBER 17: The following committees were appointed:

Mr. [Henry] Lee, Mr. [Charles] Pinckney, Mr. [Nathan] Dane, Mr. [Charles] Pettit, and Mr. [John] Henry on the "Motions of Mr. St. Clair and Lee respect<sup>ing</sup> Ind<sup>es</sup> Affairs. Letter of 16 from board of [Secretary in the War Office] with advices from Major North." This was a renewal of the committee of September 15. The letter from Robert Pemberton, Secretary in the War Office, is in No.



WEDNESDAY, OCTOBER 18, 1786.

Congress assembled. Present, as before.

WAR OFFICE, *October 18<sup>th</sup>, 1786.*

SIR: In my letters to your Excellency of the 3<sup>rd</sup> and 8<sup>th</sup> instant I mentioned some of the difficulties which operated to prevent establishing a sufficient guard at Springfield for the protection of the stores of the United States.

Previous to my departure from this city the parties assembled at Springfield, for, and against Government, had dispersed. It was not in General Sheppard's power to retain a guard, as the insurgents made it a condition of their dispersion, that he should also disband his force. On communicating with him and several other persons of information and judgement, it appeared, that an attempt to raise a guard of the well affected militia, would probably re-assemble instantly, the insurgents, in larger numbers than before. I therefore conceived, it would be proper, previous to my taking a measure that would hazard the government, to communicate fully with Governor Bowdoin on the subject, so that if necessary, he might obtain Legislative authority to raise a considerable body of men for the protection of the stores and to curb the insurgents.

The Gentlemen with whom he advised on my communications, were of the most respectable characters in the state for their political knowledge. After receiving ample information of the nature & extent of the designs of the insurgents they were unanimously of opinion that the stores ought to be protected in their present situation by the highest exertions, as an attempt to remove them, would require as large a force, as to protect them. But a removal would deeply wound the reputation of the state and the Union, encourage rebellion, and discourage the well affected.

150, II, folio 63. The extracts precede it and describe the situation on the western frontier.

Mr. [Melancton] Smith, Mr. [Nathaniel] Ramsey, and Mr. [Charles] Pinckney, on "Report of board treas<sup>r</sup> on James Smith's petit." A report was rendered October 18.

Also, was referred to the Board of Treasury to take order "Their letter of 16 with a letter from Mr. Ellery for leave to issue indents to Mr. N. Brown who is represented to have applied in due time."

*Committee Book No. 190.*

Also was read, according to indorsement, a letter from Edward Fox accepting the appointment of Commissioner for settling accounts with Virginia.

All agreed, that a considerable armed force was necessary for the protection of the stores. But difficulties occurred on consideration, which appeared insuperable, to prevent the proposal from originating from that Government. Secrecy was considered essential, but impracticable in a numerous legislature, constituted of a variety of characters. After the most mature deliberations, it was Concluded, that a force could be obtained only in consequence of a requisition of Congress. This sentiment was unanimous, and as the Honorable M<sup>r</sup> King was present, he can give the reasons at large which induced it.

The great numbers of people in Massachusetts and the neighbouring States who avow the principle of annihilating all debts public and private. The probability of those men combining themselves into an armed body for the purpose of executing their designs. The dreadful consequences which may be expected from wicked and ambitious men, possessing the command of a force to overturn, not only the forms, but the principles of the present constitutions, require the wisest councils and most vigorous measures on the part of Government.

I conceive my Official duty obliges me to inform Congress, that it is my firm conviction, arising from the information I have received, that unless the present commotions are checked with a strong hand, that an armed tyranny may be established on the ruins of the present constitutions. The insurgents will not probably longer delay the execution of their designs, those systems can be formed and means found for that purpose.

I have taken those measures for the collateral security of the stores which the nature of the case admitted. Major General Sheppard has the orders of the Governor, to furnish such a guard as I would request, and I have requested him to possess himself of the intentions of the insurgents respecting the stores and that whenever he shall learn that their designs are ripening for execution, that he shall collect all his force and endeavor to prevent them.

I have also requested his Excellency the Governor of Connecticut, to direct the commanding officers of the militia of that State, to march to Springfield with a body of twelve or fifteen hundred men, whenever they shall receive advice from certain persons, that the insurgents are about to attempt the stores.

But I must confess I consider these arrangements as inefficient, and that nothing will be adequate, but placing a body of five hundred

men at least at Springfield. On this occasion I humbly submit to the wisdom of Congress the propriety of adding such numbers to the troops now in service, as shall complete a legionary corps of fifteen hundred men. This would give protection to the Magazines during the ensuing winter and if they should not be requisite for the same purpose the next spring, they might be marched to the frontiers, or disbanded, as Congress should think most proper.

I have the honor to be etc.

H. KNOX.<sup>1</sup>

His Excellency,  
The President of Congress.

The committee consisting of Mr. [Nathan] Dane, Mr. [Charles] Pettit, and Mr. [Charles] Pinckney, to whom was referred the report of the Commissioner for settling the accounts of the Hospital Department, on the memorial of Dr. David Oliphant report:

That, on an examination of the arrangements of the Hospital Department of the United States, during the late war, it appears that prior to the 7<sup>th</sup> April, 1777, this Department was divided into several Districts, independent of each other, the office of Director General instituted in each District, and a Director General appointed thereto accordingly; and the same emoluments annexed to each office, to one of which Dr. Oliphant on the 1<sup>st</sup> of June, 1776, was appointed and commissioned under the title and description of Director General, physician, and Surjion in chief, to the Hospitals in the State of South Carolina; that on the same 7<sup>th</sup> of April a new arrangement took place in this Department, and the office of Director General of the whole was instituted, and filled by appointment, subordinate to which were formed the offices of several Deputy Directors General to which certain emoluments were annexed, and the Duties of one of which Dr. Oliphant discharged; whereupon the Committee are clearly of opinion, that Congress by their Acts and General Arrangements having constituted these officies and annexed particular emoluments to them respectively, the men appointed to them, or who discharge the Duties of them, can claim only the benefits thereto annexed, and that no general expressions in the Commission or

<sup>1</sup> This letter is in the *Papers of the Continental Congress*, No. 150, II, folio 67. According to indorsement it was read October 18 and referred to Mr. [Charles] Pettit, Mr. [Henry] Lee, Mr. [Charles] Pinckney, Mr. [John] Henry, and Mr. [Melancton] Smith.

directions to Dr. Oliphant, which appear only to misname his office, can be construed or understood, contrary to the General arrangements of the Department, to create or continue the office of Director General in the Southern States after the 7<sup>th</sup>. of April, 1777, and the accounts of Dr. Oliphant prior to that period having been settled with him as Director General, and since that period as Deputy Director General, the Committee conceive that his Claims for further allowance cannot be admitted.<sup>1</sup>

The Committee [consisting of Mr. Melancton Smith, Mr. Nathaniel Ramsay, and Mr. Charles Pinckney], to whom was referred the Report of the Board of Treasury on the Memorial of James Smith, submit the following resolve:

That the Board of Treasury take order to ascertain the Interest due on the Ballance of Principal found due to James Smith on the 24<sup>th</sup> Nov<sup>r</sup>, 1784, from the time the said ballance became due to the time it was paid, and give an Order in favour of the said James Smith upon the State of Pennsylvania for the amount, to be deducted out of the Requisition for the year 1786.\*

THURSDAY, OCTOBER 19, 1786.

Congress assembled. Present as before.

The Committee consisting of Mr. [Charles] Pinckney, Mr. [Melancton] Smith, and Mr. [William] Henry, to whom was referred an Act of the legislature of the State of Georgia passed in consequence of the resolution of the 30<sup>th</sup> April, 1784, respecting commerce and the subject of the said recommendation—

Report \* \* \* that the legislature of N. Carolina by an act passed the 2<sup>d</sup> of June, 1784, authorised her Delegates to agree to and ratify any Article or articles by which Congress shall be empowered to prohibit the importation of all foreign goods in any other than vessels owned by Citizens of the United States or navigated

<sup>1</sup> This report, in the writing of Nathan Dane, is in the *Papers of the Continental Congress*, No. 19, IV, folio 501. According to Thomson's indorsement, it was read this day. Roger Alden's indorsement is: "See Mem<sup>l</sup> O. and Act of Congress Aug<sup>t</sup> 25<sup>th</sup>, 1788."

<sup>2</sup> This report, in the writing of Melancton Smith, is in the *Papers of the Continental Congress*, No. 19, V, folio 371. According to indorsement it was read October 18 and "Oct. 25, 1787, postponed and report of board of treas<sup>r</sup> pass<sup>d</sup>"

Also, according to *Committee Book No. 189*, the claims and accounts of Allen McLean were, this day, transferred.



by such a proportion of Seamen, Citizens of the U. States as may be agreed to by Congress which when agreed to by all the States shall be considered as a part of the articles of Confederation.<sup>1</sup>

The Board of Treasury to whom was referred the Petition of Abraham Whipple praying that he may be paid the sum of dollars 3,770<sup>5</sup>/<sub>10</sub>ths due to him for Subsistence Money and Monies advanced by him on account of the United States, beg leave to Report:

That the Petitioner was a Commander of a Continental Frigate, and was interested agreeably to the Resolves of Congress in all the Prizes taken by the same.

That in various Cruizes a great Number of Prizes were made which must have been greatly to the Emolument of the Petitioner.

That notwithstanding he may be greatly distressed at this time, yet the Advantages he received as above afforded him an opportunity of placing himself in a much more eligible situation than many others who have served the Public and advanced money to them for which they have been able to obtain only Certificates of the Debt.

That from mature Consideration the Board are therefore of opinion that the Prayer of the Petitioner cannot be complied with. Whereupon they submit the following Resolves:

*Resolved*, That the sum of three thousand seven hundred and seventy Dollars <sup>5</sup>/<sub>10</sub>ths cannot be paid to Abraham Whipple late a Captain in the Navy of the United States, agreeably to the Prayer of his Petition, without giving him an undue preference over the Creditors of the Union.

*Resolved*, That the Commissioner for Settling Accounts in the Marine Department be directed to Issue a Certificate to Abraham Whipple in the usual manner for the whole of the Balance found due to him.

All which is humbly submitted.<sup>2</sup>

Board of Treasury,

October 19<sup>th</sup>, 1786.

<sup>1</sup> This report, in the writing of Charles Pinckney and Roger Alden, except the last paragraph, above, which is in the writing of John Henry, is in the *Papers of the Continental Congress*, No. 24, folio 195. According to indorsement it was read October 19 and passed October 23, on which day the part omitted above is spread *verbatim* on the Journal.

<sup>2</sup> This report, signed by Samuel Osgood and Walter Livingston, is in the *Papers of the Continental Congress*, No. 138, II, folio 501. According to indorsement it was read October 21.



## FRIDAY, OCTOBER 20, 1786.

Congress assembled. Present, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, South Carolina and Georgia.

The committee, consisting of Mr. [Charles] Pettit, Mr. [Henry] Lee, Mr. [Charles] Pinckney, Mr. [John] Henry and Mr. [Melancton] Smith, to whom was referred the letter from the war Office, with the papers enclosed, containing intelligence of the hostile intentions of the Indians in the Western country, having reported,

That the uniform tenor of the intelligence from the western country plainly indicates the hostile disposition of a number of Indian Nations, particularly the Shawanese, Puteotamics, Chippawas, Tawas and Twightwees: That these nations are now assembling in the Shawanese towns, and are joined by a banditti of desperadoes, under the name of Mingoës and Cherokees, who are outcasts from other nations, and who have associated and settled in that country for the purpose of war and plunder: That they are labouring to draw in other nations to unite with them in a war with the Americans: That it is expected one thousand warriors will soon be collected in the Shawanese towns,

OCTOBER 19: On this day was reported to the Board of Treasury, "their letter of Octo: 16<sup>th</sup> respecting the Loan Offices in S. Carolina and Georgia." Report was rendered "Feby. 1787." The letter informs Congress that the Commissioners of the Loan Offices for South Carolina and Georgia have qualified and the Board lays before Congress a state of the loan office accounts in those states and awaits orders before giving directions for these offices to issue indents. The letter is in No. 138, II, folio 379.

Also a "letter of 16 War Office with Intelligence from Western Country. Letter 18 Sec<sup>r</sup> at War" were referred to Mr. [Charles] Pettit, [Mr. Henry Lee, Mr. Charles Pinckney, Mr. John Henry, and Mr. Melancton Smith,] who reported October 21. Knox's letter of October 18 is in No. 150, II, folio 67 and a letter from him dated October 19, enclosing intelligence from the western country is on folio 83; the intelligence which is from a Captain Teninese, a Delaware Indian, is on folio 75. According to indorsement, it was read October 18. The letter of the 18 reported conditions in Massachusetts [Shays' Rebellion].

*Committee Book No. 190.*

Also was read, according to indorsement, a letter from Sir Edward Newenham, applying for appointment of his son as Consul at Marseilles. It is indorsed as "Acted on Oct. 19, 1786." See *post*, October 24. The letter and duplicates are in No. 78, XVII, folios 156-157 and 191-199.

from whence they have already despatched parties to commence hostilities: That from the motions of the Indians to the southward as well as the northward, and the exertions made in different quarters to stimulate the various nations against the Americans, there is the strongest reason to believe that, unless the speediest measures are taken effectually to counteract and defeat their plan, the war will become general, and will be attended with the most dangerous and lasting Consequences: That the committee, therefore, deem it highly necessary that the troops in the service of the United States be immediately augmented, not only for the protection and support of the frontiers of the states, bordering on the western territory and the valuable settlements on and near the margin of the Mississippi, but to establish the possession and facilitate the surveying and selling of those intermediate lands which have been so much relied on for the reduction of the debts of the United States: Whereupon,

*Resolved unanimously,* That the number of one thousand three hundred and forty noncommissioned Officers and privates be raised for the term of three years, unless sooner discharged, and that they, together with the troops now in service, be formed into a legionary corps, to consist of 2040 noncommissioned Officers and privates: That the additional troops be raised by the following states in the following proportions, to wit:

New Hampshire, 260	} Infantry and Ar- tillery.	Rhode Island, 120	} Infantry and Artillery.
Massachusetts, 660		Connecticut, 180	

Maryland and Virginia each 60 cavalry, making 120.

That the Secretary at War inform the executive authorities of the respective states, in which the troops are to be raised, the number and rank of commissioned Officers to be furnished by each State, in proportion to the men.

That the pay and allowances to the troops, to be raised by this resolve, be the same as established by the Act of Congress of the 12 of April, 1785.

That the said troops shall be subject to the existing articles of war, or such as may hereafter be formed by Congress or a committee of the States.

That the board of treasury contract for a supply of Cloathing and rations, at such places and in such quantities as the Secretary at war shall judge necessary.

*Resolved unanimously,* That the states above-mentioned be, and they are hereby requested to use their utmost exertions, to raise the quotas of troops respectively assigned them, with all possible expedition, and that the executive of the said states be, and hereby are requested, in case any of their legislatures should not be in session, immediately to convene them for this purpose, as a delay may be attended with the most fatal Consequences.<sup>1</sup>

*Ordered,* That the board of treasury, without delay, devise ways and means for the pay and support of the troops of the United States upon the present establishment, and report the same to Congress.<sup>2</sup>

SATURDAY, OCTOBER 21, 1786.

Congress assembled. Present, as yesterday.

The Board of Treasury to whom was referred an Order of the 20th October instant, to devise Ways and Means without delay, for the Pay and Support of the Troops of the United States upon the present Establishment, beg leave to Report the following Resolves:

*Resolved,* That the Board of Treasury be authorised and directed to open a Loan immediately to the amount of Five hundred thousand Dollars at Six per Cent Interest per Annum.

*Resolved,* That Congress will, without delay, make a special Requisition for reimbursing the Lenders on the above Loan, their Principal and Interest.

*Resolved,* That as a Collateral Security, the proceeds of the first half Million of Acres of the Western Territory, which shall be sold in pursuance of the Acts of Congress, be, and it is hereby pledged to the Subscribers to the above Loan.

<sup>1</sup> This report, in the writing of Charles Pettit and Charles Thomson, is in the *Papers of the Continental Congress*, No. 27, folio 315.

<sup>2</sup> According to *Committee Book No. 190*, the Board reported October 21.

*Resolved*, That a Committee be appointed who together with the Commissioners of the Board of Treasury, and the Secretary at War, shall agree with such Gentlemen as are competent to undertake the same, for the Pay, Cloathing, and Rations necessary for the support of the Troops on the present Establishment, to the last Day of December, 1783, unless sooner discharged.

All which is humbly Submitted.<sup>1</sup>

October 21<sup>st</sup>, 1786.

On the report of the board of treasury, pursuant to the Order of yesterday, to devise ways and means for the pay and support of the troops of the United States upon the present establishment,

*Resolved unanimously*, That the several states in the Confederacy be, and they are hereby required to pay into the federal treasury, on or before the 1st day of June, 1787, their respective quotas of the sum of five hundred and thirty thousand dollars in specie, which quotas are as follows:

New Hampshire.....	18, 603	Delaware.....	7, 950
Massachusetts.....	79, 288	Maryland.....	49, 979
Rhode Island.....	11, 395	Virginia.....	90, 630
Connecticut.....	46, 746	North Carolina.....	38, 474
New York.....	45, 368	South Carolina.....	33, 973
New Jersey.....	29, 415	Georgia.....	5, 671
Pennsylvania.....	72, 504		

Which sums, when paid, shall be passed to the credit of the states respectively, on the terms prescribed by the resolve of Congress of the 6th day of October, 1779; and that the moneys arising from the said requisition be, and hereby are appropriated for the pay and support of the troops on the present establishment.

*Resolved unanimously*, That the board of treasury be, and they are hereby authorised and directed to open a loan immediately to the amount of five hundred thousand dollars,

<sup>1</sup> This report, signed by Samuel Osgood, Walter Livingston and Arthur Lee, is in the *Papers of the Continental Congress*, No. 139, folio 411. According to indorsement it was passed October 21. The adopted resolves are entered in different handwritings on the blank sheet of the report.



at six per cent. per Annum, on the credit of the foregoing requisition, which they are hereby authorised to pledge to the lenders for the faithful reimbursement of the moneys loaned with the interest thereof.

The Committee consisting of Mr. [Charles] Pettit, Mr. [Henry] Lee, Mr. [Charles] Pinckney, Mr. [John] Henry, and Mr. [Melancton] Smith to whom were referred a letter from the War Office with the papers enclosed containing intelligence of the hostile movements of the Indians in the western country, and a letter of the 18 instant from the Secretary at War, suggesting the imminent danger of the public stores, deposited in the arsenal at Springfield in the State of Massachusetts from the insurrections and disorders prevailing in that state, having reported—

That from the facts stated in the said letter from the Secretary at War, and other authentic information it appears that a dangerous insurrection has taken place in divers parts of the State of Massachusetts which is rapidly extending its influence; that the insurgents have already, by force of arms, suppressed the administration of Justice in several counties.

That though the legislature of the sd. state is now in sessions, yet from the circumstances attending it, it would undoubtedly defeat the object of the federal interposition should a formal application for the same be made. That nevertheless it appears to the committee that the aid of the federal government is necessary to stop the Progress of the insurgents; ~~that such Aid is earnestly desired by the Governor and Council, the particular Circumstances prevent its being applied for in a more formal Manner;~~ and that there is the greatest reason to believe that, unless speedy and effectual measures shall be taken to defeat their designs they will possess themselves of the Arsenal at Springfield, subvert the ~~constitutional~~ government, and not only reduce that Commonwealth to a State of Anarchy and Confusion, but probably involve the United States in the Calamities of a civil war.

Under such Circumstances the committee conceive that the United States are not only bound by the confederation and good faith, but strongly ~~urged by the Calls of good Policy and sympathetic Affection~~ prompted by friendship, affection, and sound policy to be prepared to extend such aid to the State of Massachusetts as may be necessary to restore the government to the full exercise of its constitutional



authority, and to afford protection to the important public stores deposited within that state. For these purposes the committee think it proper that a body of troops should be immediately raised under the authority of the United States; but as it is not expedient that these causes should be publickly assigned for the raising of such troops, especially as the other Matters referred to the Consideration of the committee afford sufficient ground to authorize the measure, they have thought it proper, in a separate report on the intelligence received from the Western Country, to recommend the Augmentation of the troops in the service of the United States. And as these troops are proposed to be raised chiefly in the eastern states, they may probably effect these salutary purposes before they are moved to the Western Country.

*Resolved unanimously,* That Congress agree to the said report.

*Resolved un.,* That although the present condition of Massachusetts demand immediate preparatory arrangements for the interposition of the Union when called for, and the happiness of the U. S. require the adoption of measures calculated to crush the insurrection in that state still in the present embarrassments of the federal finance Congress would not hazard the perilous step of putting arms into the hands of men whose fidelity must in some degree depend on the faithful payment of their wages had they not the fullest confidence from authentic and respectable information of the most liberal exertions of the money holders in the State of Massachusetts and the other States in filling the loan authorised by the resolve of Congress of this date.<sup>1</sup>

<sup>1</sup> This proceeding is entered by Thomson, in *Secret Journal, Domestic*, No. 3. The words lined out so appear in the report of the committee and not in the Journal. This report, in the writing of Charles Pettit, with changes by John Henry and Charles Thomson is in the *Papers of the Continental Congress*, No. 30, folio 405. It is indorsed: "Private report \* \* \* passed 21 Oct. 1786." Thomson has entered on it the two resolves as above. See *ante*, October 20. An interesting letter from Rufus King to Charles Thomson, dated December 10, 1786, informing as to Shays' Rebellion, is in No. 59, III, folio 109.

The Board of Treasury to whom was referred a Motion of the Honorable the Delegates of the State of Massachusetts for prolonging the receipt of Indents of Interest on the Requisition of the 27<sup>th</sup> September, 1785, beyond the first of January next, the time prescribed by the said Act, beg leave to Report:

That the Quota of the State of Massachusetts, payable in Specie on the Requisition of the 27 <sup>th</sup> Sept., 1785, is	-----	112, 214
In Indents of Interest	-----	336, 340
		-----
Total Dollars	-----	448, 554

That the amount of Indents of Interest already transmitted to the Loan Office of the State of Massachusetts, is 397,500 Doll<sup>r</sup> out of which had been issued to the 30<sup>th</sup> September last, 292,117 Dollars, which is nearly the amount of the proportion of Indents which is receivable on the Quota of that State on the Requisition of the 27<sup>th</sup> September, 1785.

That previous to the first of January next, the Commissioner of the Loan Office in the State of Massachusetts will in all probability issue as many Certificates, as will be the amount of the Interest due on the Domestic Debt of the United States, belonging to the Citizens of that State; and beyond the Sum which can be received within that State, on its Quota of the Requisition of the 27<sup>th</sup> September, 1785.

That although the Requisition of the 27<sup>th</sup> Sept<sup>r</sup>, 1785, prescribed the first day of May last for completing the payment of the Specie Quota due on the said Requisition, no payment in Specie has yet been made by any States in pursuance thereof, excepting New York, Pennsylvania, and South Carolina.

That to extend the time for receiving Indents of Interest in the several States on the Requisition of the 27<sup>th</sup> September, 1785, without taking any measures to hasten the Collection of their respective Specie Quotas, would in the opinion of this Board, encourage that disposition to procrastinate the payment of the Specie Balances due from the several States, whose consequences are already so injurious to the welfare of the Confederacy.

The Board are sensible, that the late unhappy disturbances which have prevailed in the State of Massachusetts may have impeded the Collection of Taxes in that State; but they cannot consistently with the duty which they owe to the general Interest of the Union, recommend an unqualified compliance with the motion submitted to their consideration, since in their judgment it would inevitably defeat

the operation of the general Requisitions so far as they respect the Collection of the Specie Quotas.

It is necessary further to observe, that although Indents of Interest issued in pursuance of the Requisition of the 27<sup>th</sup> September, 1785, are not receivable on that Requisition after the 1<sup>st</sup> January next, unless the respective Quotas of Indents are in the hands of the several State Treasurers, or other proper officer on or before that day; yet the same are receivable on the Requisition of the 4<sup>th</sup> September, 1782, and on the Balances of Indents due on the Requisitions of the 27<sup>th</sup> and 28<sup>th</sup> April, 1784, without any definite period being fixed for such receipt. It is true, that this will not affect the States of Massachusetts, and Pennsylvania, so far as it respects the Requisitions of the 4<sup>th</sup> September, 1782, and 27<sup>th</sup> and 28<sup>th</sup> April, 1784.

Justice to those States which have complied with the Requisition of the 4<sup>th</sup> September, 1782, and a regard to the maintenance of Public Credit undoubtedly require, that no time should be lost in completing the Requisition last mentioned, and in discharging the Balances of the requisition of the 27<sup>th</sup> and 28<sup>th</sup> April, 1784. Unless this is done without delay, the mode devised by the United States in Congress, for giving every relief in their power to the Creditors of the Union, will ultimately operate to their prejudice, by throwing into circulation a new species of Paper for the payment of Interest, without any definite or adequate Funds for absorbing the same.

This important object appears to have been in the contemplation of Congress in passing the Requisition of the 27<sup>th</sup> September, 1785; in which a definite period is established for redeeming the Indents of Interest issued in pursuance thereof. The Board beg leave to suggest, whether on the same principles it is not advisable to fix a period for completing the payment of Indents of Interest on the Requisitions of the 4<sup>th</sup> September, 1782, and 27<sup>th</sup> and 28<sup>th</sup> April, 1784.

Should this be done, and the extension of the receipt of Indents on the Requisition of the 27<sup>th</sup> September, 1785, be admitted on such principles, as would incite the several States to complete the payment of their Specie Quotas due on the same, the United States in Congress would, in the opinion of this Board, manifest to the several States, as strong a disposition to accommodate the Collection of the Federal Revenue, to the circumstances of the different Members of the Union, as can be done consistently with the present Exigencies of the Government, and that regard to the principles of Public Credit, which is so essential to the general Welfare.

On the above principles, we beg leave to submit to the consideration of Congress the following Resolves:

*Resolved*, That the several States, be forthwith required to complete the payment of the Balances due from them respectively on the Requisitions of the 4<sup>th</sup> September, 1782, and the 27<sup>th</sup> and 28<sup>th</sup> of April, 1784, and that in case the said Requisitions shall not be completed, agreeably to the Terms thereof, on or before the Day of \_\_\_\_\_ the States so deficient, shall be held to pay thereafter in Specie the Sums by them respectively due; and that the Specie so paid shall be applied towards the discharge of the Indents of Interest issued in pursuance of the former Requisitions of Congress, provided the same does not exceed the amount which was receivable in Indents of Interest on the Requisitions above mentioned.

*Resolved*, That in any State where the Quota in Specie due on the Requisition of the 27<sup>th</sup> September, 1785, shall be paid on or before the first day of January next, the proportion of Indents of Interest which such State has a right to avail itself of on the said Requisition, may be received in discharge thereof to the first day of April, 1787. Provided always that, if the whole of the said Indents shall not be then paid into the General Treasury or the Commissioners of the respective Loan Offices, the Balance so deficient shall be thereafter paid in Specie, and applied agreeably to the directions specified in the Requisition of the 27<sup>th</sup> September, 1785.

All which is humbly submitted.<sup>1</sup>

October 20<sup>th</sup>, 1786.

BOARD OF TREASURY,

October 5<sup>th</sup>, 1786.

SIR: In obedience to the orders of Congress directing this Board to Report on a Representation made by Mess<sup>rs</sup> Lawrence and Morris, touching our Contract for Clothing the Troops, we beg leave to submit to that honorable Body, our reasons for entering into the Contract in question, together with some observations on the remarks made by these Gentlemen.

In examining their objections, we find that they consist of two points—viz.

<sup>1</sup> This report, signed by Samuel Osgood, Walter Livingston, and Arthur Lee, is in the *Papers of the Continental Congress*, No. 139, folio 403. According to indorsement it was read October 21 and "This matter settled by requisition of 1787."



1<sup>st</sup> That we have deviated from the usual mode of Advertising all Contracts for the Public.

2<sup>d</sup> That the prices the Board have contracted for, far exceed those at which the Cloathing was furnished last Year; and at which these Gentlemen declare they were ready to supply it this Year, had they been employed.

On the first point, we beg leave to observe that, although under the Administration of the Treasury by the late Superintendant of Finance, and of this Board, it has been usual to advertise Contracts for Supplies to the Army; the fact is, that the Contract for Clothing has not been advertised, except in the single instance of last Year. Advertising the Contracts has been confined to the supply of Provisions, in which the quality could be much better ascertained, than it possibly can in the Article of Clothing; and where the evil (in case of a failure on the part of the Contractor) is only temporary. In the supply of Clothing by Contract, executed by the lowest Bidder, it is extremely difficult to guard against impositions, either as to quality, or making up the supply; and the consequence of such abuse, is felt by the Soldier through the whole Year. These reasons it is probable prevented any such Contracts for Clothing during the Administration of the late Superintendant of Finance. From a wish however of extending the system of Public Contract (if possible) to every branch of the Administration, we last Year advertised a Contract for the Clothing; and, the lowest proposals having been made by Mess<sup>rs</sup> Lawrence and Morris, the execution of it devolved on them. No official complaint was ever laid before the Board against the Contractors of last Year for a failure in the execution of the Contract; but it is certain that the lowness of the price at which these Gentlemen undertook the Contract prevented the possibility of furnishing several Articles of that quality which was necessary; more especially the essential articles of Shoes, Hats and Overalls which could not (at the prices of Mess<sup>rs</sup> Lawrence and Morris' late Contract) be procured of a proper quality. If therefore we had merely for the reasons above assigned, judged it advisable not to advertise this Year a Public Contract for supplying the Army with Clothing, we should have stood justified by precedents founded on reason, and confirmed by our own experience.

But a far more powerful reason rendered it improper this Year to advertise this Contract. It was not practicable for us to fix either



a precise time of paying for the Clothing to be furnished, or to promise payment in Specie, Both of which are essential points in all Contracts proposed by Advertisement. The embarrassed state of the Finances, from an almost total stagnation of Taxes in the respective States, and the revival of Paper Currency, rendered it extremely difficult to obtain Specie enough for the support of the Civil List; and were the Board (under present circumstances) to divert, for any other purposes, the Funds relied on for this essential object, it would hazard the immediate dissolution of the Federal Government.

After many applications made to this Board by the Secretary at War, to enter into stipulations for paying the Troops now in Service, at fixed periods, and for furnishing Clothing, we were obliged for a long while to decline entering into either of these engagements for the reasons above mentioned; and we could not at last have effected it, notwithstanding the weighty arguments in General Knox's Letter of the 23<sup>d</sup> June last (Copy of which, N<sup>o</sup> 1, is herewith enclosed) had not the present Contractors agreed to such a mode of payment as was practicable for the Board to make. What these Proposals were will appear by their Letter N<sup>o</sup> 2, of the 31<sup>st</sup> August last.

It may be asked, why the Board did not require of Mess<sup>rs</sup> Lawrence and Morris, the former Contractors, the prices at which they would be willing to execute this Contract, on the mode of payment proposed by Mess<sup>rs</sup> Turnbull, Marmie & Co. The Answer is, That it was in our opinion necessary (in order to prevent if possible, the Depretiation of the New Emission Money of Pennsylvania when issued, and for other State Reasons, which cannot be unknown to Congress) that no one but the confidential Servants of the Board, and the Persons actually interested in the Success of the Negotiation, should know that this Paper was to be put into circulation. The necessary secrecy could not have been preserved, had the mode of payment been communicated to Mess<sup>rs</sup> Lawrence and Morris (or others, having an equal right with those Gentlemen to such Communication) and been rejected; which we conceived was most probable. It therefore appeared to us, that the communication would certainly have depreciated and eventually might have deprived us of the only means in our power of providing for this essential Supply; without any probability of reducing the price of the Articles, if furnished of a proper quality. Our Reasons for fearing a Rejection of our Offers were 1<sup>st</sup>, Because no period whatsoever was stipulated for the payment;

2<sup>d</sup>, Because the payments when received, was to be in a Paper medium, which could not with equal advantage be Negotiated by any Person, whose chief Mereantile Transactions did not center in Philadelphia. On this point, we shall have occasion to remark more fully in Answering the second head of the objections made against the present Contract.

Before however we proceed to this consideration, it may not be improper to observe, that the Gentlemen, who have complained against our conduct as unprecedented, in making a private Contract for the supply of Clothing for the present Year; actually solicited of the Board, a preference of a Contract for this Supply, alledging as a Reason, the loss they had sustained by the first Contract; And we should certainly have conceived ourselves justifiable in entering into such a Negotiation with these Gentlemen not only for the general reasons we have mentioned, but from the consideration suggested by themselves, had our means of payment been such as we could reasonably have believed Contractors in the City wou'd have accepted, and which might without impropriety have been communicated. In proof of the preference solicited and the reasons for it, we beg leave to lay before Congress a Letter from Messrs. Lawrence and Morris to the Board No. 3.

On the second head of the Objections, namely "That the prices the Board have Contracted for exceed those at which the Clothing had been furnished last Year, and at which rate the Gentlemen declare they were ready to supply it this Year had they been employed." We beg leave to observe, that the prices it is true are different, and that the statement of the difference does not appear to vary materially from what has been set forth by Mess<sup>rs</sup> Lawrence and Morris; but then it is equally true, that the two Contracts differ essentially, not only as to the principles on which they are made, but as to the mode of payment; and so much so, as to easily reconcile this apparent difference, on a candid comparison of the Contracts, No. 4 and 5.

They differ as to principle; because, in the former Contract the Contractor had a right to an Arbitration, if the Inspector on the part of the Public disapproved of the Workmanship or quality of the Clothing. By the present Contract, no such right is left with the Contractor. From a conviction that it was neither real œconomy nor justice to the Soldiery to fix the prices of the different Articles of Clothing, so low as to put it out of the power of the Contractors to

furnish Articles of sufficient goodness without being losers, the Board determined in the present Contract, to fix such a price as would ensure a supply of good Clothing; and to leave it to the Secretary at War, by having the right of fixing the patterns after the Contract was made, and afterwards the sole power of Inspection, to oblige the Contractors to furnish the different Articles in proportion to the price given. Whether or no therefore the Contract is favorable to the Public, will depend on the patterns determined on by the Secretary at War, and a proper Inspection.

The only points therefore which we presume it was necessary for the Board to establish were;

1st. Whether the price of a Suit of Soldiers Clothing was higher than what was judged necessary by the Secretary at War to ensure the different Articles of Clothing of a proper Quality.

2d. Whether the same could be furnished at the former prices without loss to the Contractors.

To shew the ground of our Opinion on the first point, the Board beg leave to lay before Congress an Estimate of the Secretary at War No. 6. of the Sum necessary for the supply of Clothing for the present Year (viz. for 420 complete Suits) in which a Suit of Cloths is estimated at 26 Dollars each. This estimate will be found included in the general Estimate for the Year 1786 transmitted by this Board to the United States in Congress. The last Requisition (in which the Monies necessary for this purpose are included) is founded on it. The Soldiery have therefore derived a right to Clothing for the present Year, proportionate to the Sum voted for this purpose by the United States in Congress; and as it has not, and too probably will not be in the power of the Board to satisfy them in the Material Article of Pay, it becomes their peculiar duty to do them justice in this object.

It is to be observed further, that this Estimate was formed by the Secretary at War, and communicated to this Board after the last Contract had been executed; and when of course he must have ascertained whether the former prices could ensure a proper Supply.

To prove the second point, we desire to refer to the Letter of the late Contractors to this Board, No. 3, in which they declare: "That they has lodged with the Secretary at War, an Estimate to prove that they had been sufferers by the last Contract; and that they could prove the veracity of that Statement by Vouchers in their possession." Mess<sup>rs</sup> Lawrence and Morris are pleased to observe that they would

have been willing to have taken the Contract of the present Year on the former terms. It would not have been justice to those Gentlemen for the Board to have supposed this in direct contradiction to the declaration above mentioned, supported by a similar one in a Letter from them to Mr. Staats Morris, and by him laid before the Board, in which (after stating the prices of the last Years Contract) they observe "*That it would not answer to form an Estimate from the above prices.*" We are sorry to observe, that the Letter No. 7, in which the late Contractors complain of having been losers, was not transmitted by them to Congress; and that they only furnished to that Honorable Body, an Extract of their Letter to Mr. Staats Morris, omitting the Remark above quoted.

Having said as much as we conceive necessary on the first point, We beg leave to consider the two Contracts as to the mode of payment. By the last Year's Contract, the whole Sum necessary for executing the same (namely 13,455 Dollars) was advanced to the Contractors in Bills of Exchange on Holland at the favorable rate of Three Shillings Pennsylvania Money per Current Florin. By the present Contract, the Contractors are to hazard the Negotiating the New Emission Money of the 18th March, 1780, at par, and abide by the loss that may arise on the Negotiation; or to be paid in orders on the Receiver of Taxes of Pennsylvania, payable at no fixed period, and subject to a Negotiation with the Treasurer of that State in Paper Currency. We think it unnecessary to make any remarks on the present value of this Paper in Pennsylvania when compared with Specie; but certain it is, that it is far from being equal to Bills of Exchange.

The extreme contingencies of either mode of payment will be apparent to Congress, when it is considered by that Honorable Body, that to the New Emission Money the State claims a right, in consequence of a negotiation entered into betwixt the Government of Pennsylvania, and the late Superintendant of Finance; and have actually endeavored by a process against the Commissioner of the Loan Office, to Arrest the issue of it; and that in consequence of a difference in statement on the Requisitions of the 27<sup>th</sup> April, 1784, betwixt the Comptroller of Pennsylvania, and the Officers of the Federal Treasury, it is alledged by Pennsylvania that they have more than completed the payment of their Quota on the present existing Requisitions.



This disadvantage in payment we could not estimate at less than 10 p Cent. Because no Merchant whatsoever would in the present state of Commerce, hesitate, in our opinion, to Sell his Merchandize for Bills of Exchange in hand, at the rate fixed by the Contract of last year, with Mess<sup>rs</sup> Lawrence and Morris at the discount above mentioned, in preference to trusting any Government whatsoever in the United States for a period not defined, and for a mode of payment so liable to the hazard of Depretiation.

We therefore considered, that the difference to the Public whether furnished at the City of Philadelphia, or at this place, could not be estimated at less than two per Cent.

On Estimating, from a view of all the circumstances we have mentioned, the two Contracts, the comparison stands thus—

Disadvantage to the Contractors from the contingent mode of payment 10 p. Ct on the Sum of £4,212:6/ Pennsylvania Currency, amount of the Contract.....	Dol <sup>s</sup> .....	1, 122. 60
Advantage to the Public by the Clothing being at Philadelphia instead of New York.....		224.

1, 346. 60

The advantage to the present Contractors by Mess<sup>rs</sup> Lawrence & Morris, is stated to be..... 1, 791.

So that even in this point of view the whole difference of advantage to the present Contractors would only be 344<sup>3</sup>/<sub>10</sub> Dollars (which is far short of a Commission of 5 per Cent) even of the Contract was intended to furnish Articles of no better quality than was done last Year; This was not the case; the whole statement of Mess<sup>rs</sup> Lawrence and Morris is founded on the assumption that such was the intention of the Contracting Parties; and is therefore fallacious. From the purport of these Gentlemen's Letter to the Board of the 16<sup>th</sup> June, 1786, it appears they did not gain a commission for furnishing the Clothing at the prices agreed on last Year (although they had the whole cost advanced in Bills of Exchange) and such compensation at least, every person has a right to expect who undertakes a Public Contract.

On the whole it will appear That we have not deviated from established rules of advertising a Public Contract for the supply of Clothing for the present Year.

That, even if it had been advisable to renew the Experiment (first attempted by this Board) of giving the Contract for Clothing to the lowest Bidder, the state of the Finances did not enable us to advertise such a Contract.



That in fixing the price of a Suit of Soldiers Cloths for the Year 1786, we have governed ourselves by the Estimate of the present Year, furnished by the Secretary at War, and approved of by the United States in Congress.

That the Contract we have entered into puts it altogether in the power of the Secretary at War to ensure a supply of Clothing proportionate in goodness to the difference in price betwixt this, and the last Year.

That the terms of payment are essentially different from those of the Contract of last Year.

That from the communications of Mess<sup>rs</sup> Laurence and Morris, we have no reason to suppose they would have undertaken the present Years Contract at the prices of the last; but the reverse.

That had they been so disposed, we had it not in our power to promise at any period an absolute payment in Specie; much less to advance the whole amount in Bills of Exchange; neither should we have judged it proper to fix the prices of many principle Articles of Clothing so low as to hazard the goodness in quality of the Articles furnished.

On these Principles our Negotiation of the Contract in question rests: And we doubt not on a candid Investigation they will appear satisfactory to the United States in Congress.

With the greatest respect we are, etc.<sup>1</sup>

His Excell<sup>y</sup>

The President of Congress.

MONDAY, OCTOBER 23, 1786.

Congress assembled. Present, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, South Carolina and Georgia; and from Maryland, Mr. [Nathaniel] Ramsay, and from Virginia, Mr. [Henry] Lee.

<sup>1</sup> This report, signed by Samuel Osgood, Walter Livingston and Arthur Lee, is in the *Papers of the Continental Congress*, No. 138, II, folio 29. According to *Committee Book No. 190*, it was delivered October 9. According to indorsement it was read in Congress October 21. A further explanation was made in a letter of October 20 to the committee of October 9, consisting of Mr. Lambert Cadwallder, Mr. [Henry] Lee, and Mr. Charles Pinckney. It is in No. 138, II, folio 43. See *post*, October 24.

<sup>1</sup> The committee, consisting of Mr. [Charles] Pinckney, Mr. [Melancton] Smith and Mr. [John] Henry, to whom was referred an act of the legislature of the State of Georgia, passed in consequence of the resolution of the 30th April, 1784, respecting Commerce, and the subject of the said recommendation, having reported,

That it appears by the said resolutions, the United States in Congress assembled, recommended to the Legislatures of the several States, to vest them, for the term of fifteen years, with powers to prohibit any goods, wares or merchandize from being imported into or exported from any of the States, in Vessels belonging to or navigated by the Subjects of any power with whom these States shall not have formed treaties of Commerce. That they also recommended to the Legislatures of the said States, to vest the United States in Congress assembled, for the term of fifteen years, with the power of prohibiting the Subjects of any foreign State, Kingdom or Empire, unless authorised by treaty, from importing into the United States any goods, wares or merchandize, which are not the produce or manufacture of the dominions of the Sovereign whose subjects they are: Provided that to all Acts of the United States in Congress assembled, in pursuance of the above powers, the assent of Nine States shall be necessary. The Committee have carefully examined the Acts passed by the several States in pursuance of the above recommendation, and find: That the State of Delaware has passed an Act in full compliance with the same: That the Acts of the States of Massachusetts, Rhode Island, New York, New Jersey, Virginia and Georgia, are in conformity to the said recommendation, but restrained in their operation until the other States should have granted powers equally extensive: That the States of Connecticut, Pennsylvania and Maryland, have passed laws agreeable to the said resolution, but have fixed the time at which the powers thereby invested shall begin to operate, and not left the same to commence at the time on which Congress shall begin to exercise it; which your Committee conceive to have been the intention of the same: That South Carolina, by an Act passed the 11th March, 1786, have invested the United States in Congress assembled, with the power of regulating the trade of the United States

<sup>1</sup> At this point Benjamin Bankson begins the entry, with a correction by Charles Thomson as to North Carolina's Act.

with the West Indies, and all other external or foreign trade of the said States for the term of fifteen years, from the passing of the said Act: That New Hampshire, by their Act of the 23d of June, 1785, invested the United States in Congress assembled, with the full power of regulating trade for fifteen years, by restrictions or duties, with a proviso suspending its operation until all the other States shall have done the same: That North Carolina, by their Act of the 2d June, 1784, have authorised their delegates to agree to and ratify an article or articles by which Congress shall be empowered to prohibit the importation of all foreign goods, in any other than vessels owned by citizens of the United States, or navigated by such a proportion of seamen, citizens of the United States, as may be agreed to by Congress, which when agreed to by all the States, shall be considered as a part of the Articles of Confederation and perpetual Union. From the above review of the Acts passed by the several States, in consequence of the said recommendation, it appears that, though in order to make the duration of the powers equal, it will be necessary for the States of Connecticut, Pennsylvania, Maryland and South Carolina, so far to amend their Acts, as to permit the authorities therein granted to commence their operation at the time Congress shall begin to exercise them, yet still the powers granted by them and by the States of Massachusetts, Rhode Island, New York, New Jersey, Delaware, Virginia and Georgia, are otherwise in such compliance with the recommendation, that if the States of New Hampshire and North Carolina had conformed their Acts to the said resolution, agreeable to the urgent recommendation of Congress of the 3d of March last, the powers therein requested might immediately begin to operate. The Committee, however, are of opinion, that the Acts of the states of New Hampshire and North Carolina, manifest so liberal a disposition to grant the necessary powers upon this subject, that their not having complied with the recommendation of March last, must be attributed to other reasons than a disinclination in them to adopt measures similar to those of their sister States: the Committee, therefore, conceive it unnecessary to detail to them the situation of our Commerce, languishing under the most ruinous restrictions in foreign ports, or the benefits which must arise from the due and equal use of powers competent to its protection and support, by that body which can alone beneficially, safely and effectually exercise the same: Whereupon,

*Resolved*, That it be again earnestly recommended to the Legislatures of the States of New Hampshire and North Carolina, at their next session, to reconsider their Acts and pass them in such conformity with the resolutions of the 30th April, 1784, as to enable, on their part, the United States in Congress assembled, to exercise the powers thereby invested as soon as possible.

*Resolved*, That as the extent and duration of the powers to be exercised by the United States in Congress assembled, under the recommendation above-mentioned, ought to be equal, it be recommended to the Legislatures of Connecticut, Pennsylvania, Maryland and South Carolina, so far to amend their Acts, as to vest the powers therein contained for the term of fifteen years, from the day on which Congress shall begin to exercise the same.

*Resolved Unanimously*, That whenever it shall appear to the Secretary of the United States of America for the department of foreign Affairs that their safety or interest require the inspection of any letters in any of the post Offices he be authorised and empowered to inspect the said letters, excepting from the operation of this resolution all letters franked by or addressed to Members of Congress.<sup>1</sup>

[Motion of M<sup>r</sup> King]

*Resolved*, That the post master General make such an allowance to William Bedlow post master in the City of New York in addition to the emoluments of his Office as may be a reasonable compensation for his extra services in the Receipt and dispatch of Packet Letters originally received in his Office.

*Resolved*, That the post mast. Gen. retain in his hands the last quarters salary of the contractors for the transportation of the mail from the City of New York to Savannah till an enquiry is made into

<sup>1</sup> This proceeding is entered by Thomson only in *Secret Journal, Domestic*, No. 3.



the causes of the many disappointments which have taken place in the conveyance of the mail on that Rout.<sup>1</sup>

TUESDAY, OCTOBER 24, 1786.

Congress assembled: Present, Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, South Carolina and Georgia; and from Virginia, Mr. [Henry] Lee.

[Motion—Mr. King.]

*Ordered*, That the Secretary of congress take order to so inform Mr. Read in answer to his letter of the 7 Oct<sup>r</sup> that congress having given public notice to all persons concerned that the court of Appeals would assemble at N. York on the 1<sup>st</sup> Monday of Nov<sup>r</sup> next, they cannot dispense with the punctual attendance of the members of that Court.<sup>2</sup>

<sup>1</sup> This motion, in the writing of Rufus King, is in the *Papers of the Continental Congress*, No. 36, III, folio 315. According to indorsement it was made October 23 and referred to the Postmaster General to report. According to *Committee Book No. 190* he reported October 25.

Also, according to indorsement, was read a petition of Daniel Van Voohis, praying to be appointed Master Coiner in the Mint. It is in No. 42, VIII, folio 101.

<sup>2</sup> This motion, in the writing of Rufus King, is in the *Papers of the Continental Congress*, No. 19, V, folio 235. It is indorsed: "respecting George Read's letter of Oct. 7<sup>th</sup> 1786—Judge of Court of Appeals. Referred to Sec<sup>r</sup> of Congress to take order, Oct<sup>r</sup> 24<sup>th</sup> 1786."

OCTOBER 24: The following committee was appointed:

Mr. [Lambert] Cadwallader, Mr. [Charles] Pinckney, Mr. [John] Bull, on "Report of board of treas<sup>r</sup> on letter Lawrence and Morris." See *ante*, October 9 and October 20.

Also the "Mem<sup>l</sup> Jos: Traversie in favour of Indians dispossessed of their lands by Col. Allen" was referred to the Secretary at War to report.

Also "Letter of Kaylelamund for a tract of land on beaver Creek for himself and family" was referred to the Secretary at War to report.

Also "letter Sr. Edward Newenham soliciting place of vice Consul for his son at Marsielles in france" was referred to the Secretary for Foreign Affairs to report and a report rendered February 3, 1787. Newenham's letters are in No. 82, III, folios 255-261; they were forward by Jay in a letter which is in No. 80, III, folio 117 and which, according to indorsement, were read October 24.

*Committee Book No. 190.*

Also, according to indorsement, was read a letter from the Secretary at War, informing of his purpose to inspect the ordnance and military stores at Philadelphia. It is in No. 152, II, folio 87.

Also was read a letter of September 24 from Gov. Richard Caswell, of North Carolina, acknowledging resolves of Congress, of August last, and stating that they will be laid before the legislature. It is in No. 72, folio 265.



WEDNESDAY, OCTOBER 25, 1786.

Congress assembled. Present as yesterday.<sup>1</sup>

THURSDAY, OCTOBER 26, 1786.

Congress assembled. Present, Massachusetts, New York, New Jersey, Pennsylvania, Maryland, South Carolina and Georgia; and from Rhode Island, Mr. [Nathan] Miller, and from Virginia, Mr. [Henry] Lee.

On a report of the postmaster general.

*Resolved*, That the Post-master general make such an allowance to the postmaster at the port where the <sup>2</sup> European Packets do, or shall stately arrive, in addition to the emoluments of his office, as may be a reasonable compensation for his extra services in the receipt and despatch of Letters originally received into his Office from on board such Packets, and by him forwarded to other offices: <sup>3</sup>

Provided that such Allowance shall not exceed            per Centum on the Amount of inland Postage chargeable from

<sup>1</sup> OCTOBER 25: According to indorsement was read a letter of October 24 from the Secretary for Foreign Affairs transmitting a note from Mr. Otto of the 23d and a letter from the King of France. Jay's letter is in No. 80, III, folio 125 and a contemporary translation of that from King Louis, announcing the birth of a daughter, is in the *Papers of the Continental Congress*, Miscel. According to *Committee Book No. 190* the matter was referred back to the Secretary for Foreign Affairs to report and a report rendered February 3, 1787.

Also was read a letter from President John Sullivan, of New Hampshire forwarding an Act of New Hampshire complying with that part of the requisition of September 27, 1785 which respects facilities. It is in No. 64, folio 308.

<sup>2</sup> Roger Alden here begins the entry.

<sup>3</sup> A letter from Ebenezer Hazard, dated October 24, 1786, dealing with this matter, is in No. 61, folio 275. It refers to a motion of Congress, referred to him, but no motion seems to be recorded nor does the letter bear evidence of having been read in Congress.

time to time upon such Letters, agreeably to the Ordinances of Congress.

*Resolved*, That the Postmaster General retain in his hands, after the Expiration of the present Contract with the Proprietors of the Stages, such Sum as one Quarter's Pay for the Transportation of the Mail from the City of New York to Savannah in Georgia will amount to, until an Enquiry is made into the Causes of the many Disappointments which have taken place and of any others which may yet take Place, in the Conveyance of the Mail upon that Route.

Referred to post m. gen. to take Order.<sup>1</sup>

The Committee [consisting of Mr. Lambert Cadwallader, Mr. Charles Pinckney, and Mr. John Bull] to whom were referr'd the Letter of Mess<sup>rs</sup> Lawrence & Morris of the 29 September last, and the Answer of the Board of Treasury to said Letter, relative to the Contract enter'd into by the said Board with Mess<sup>rs</sup> Turnbull Marmie & Co. of Philadelphia, for the Supply of Clothing for the Troops, report:

That having fully considered the several Facts and Allegations of Mess<sup>rs</sup> Lawrence & Morris and of the Board of Treasury they beg Leave to point the Attention of Congress to the Examination of the following Questions—

1<sup>st</sup> Whether in the Situation of the Finances of the U. States at the Time of forming the Contract with Mess<sup>rs</sup> Turnbull Marmie & Co., it was incumbent on the Board of Treasury to have advertized the s<sup>d</sup> Contract, and

2<sup>dly</sup> Whether the Contract made with Mess<sup>rs</sup> Turnbull Marmie & Co. was founded on a proper Estimate of the Value of the several Articles therein specified.

In ordinary Course of Affairs, when no Difficulty actually exists with Regard to the furnishing of Money for such Contracts it is the Opinion of your Committee that the Interests of the U. States would require that the Contracts should be invariably published, in Order

<sup>1</sup> This resolve, in the writing of Ebenezer Hazard, is in the *Papers of the Continental Congress*, No. 61, folio 383. It is indorsed: "Report Postmaster General respecting allowance to Post Master at N. York. first paragraph Passed Oct<sup>r</sup> 26<sup>th</sup>, 1786 Second referred to P M General to take Order Oct<sup>r</sup> 26<sup>th</sup> 1786." A copy by Roger Alden is in No. 59, III, folio 421.

to raise a Competition for the Cheapness of the several Articles which are the Objects of them; but when there is neither money in the Treasury nor any Fund on wh. the Commissioners could depend for an immediate Supply your Committee are of Opinion, that under these peculiar Circumstances the Commissioners were not bound to advertize the Contracts for Clothing as in the Instance of the last year, but were at Liberty to deviate from that mode and to adapt the Measure to the Exigence of the Case. How far the Deviation was warranted by the Circumstances of the Case will appear from the following State of Facts.

In the Contract with Mess. Turnbull Marmie & Co. it is stipulated that they shall receive in Payment a draft on the Loan Office of the State of Pennsylvania for the Amount in the new Emission Money of 1780, and in the Case the same cannot be paid in said Emission, or it should appear to them that any Difficulty may arise, so as not to answer their Purpose in the Payment for s<sup>d</sup> Clothing; in that Case, they agree to take a Draft on the Continental L. Office in s<sup>d</sup> State, which *when paid*, shall be deemed a full Payment for s<sup>d</sup> Clothing. Your Committee are informed, that there is actually a Sum of new Emission Money in the Loan Office of Pennsylvania due to the United States; of this the Commissioners have so far avail'd themselves in the Contract with Mess<sup>rs</sup> Turnbull Marmie & Co. as, in all Probability to make Payment in it thereby substituting the new Emission Paper in Lieu of solid Coin which is so much wanted for the Discharge of our Engagements with foreign Nations. But even if the Payment should not be made in such Manner the said Mess<sup>rs</sup> Turnbull Marmie & Co. are then to resort to the Continental L. Office of Pennsylvania and *wait the Ability of s<sup>d</sup> Office* to make Payment before they can receive their Money.

With Regard to the second Point, to wit, whether the s<sup>d</sup> Contract with Mess<sup>rs</sup> Turnbull Marmie & Co. was founded on a proper Estimate of the Value of the several Articles mentioned in it your Committee observe that an Estimate of the Clothing for the Troops for the present year was included in a general Statement laid before Congress by the Secretary at War on the 19<sup>th</sup> February last and afterwards sent to the Board of Treasury in which a complete Suit of Soldiers Clothing is valued at twenty-six Dollars. On this Sum the Board of Treasury founded their Contract with Mess<sup>rs</sup> Turnbull Marmie & Co. affixing the Prices to the several Articles as mentioned

in s<sup>d</sup> Contract so as to amount to s<sup>d</sup> Sum precisely. In Consequence of some Complaints made to the Secretary at War of the Clothing being fix'd at too low a Price in the former Contract with Mess<sup>rs</sup> Lawrence & Morris, to procure the several Articles of sufficient Goodness and of the Quality usually given to the Soldiery, it was thought proper to enhance the Prices of them for the present Year. This was accordingly done in the Contract with Turnbull Marmie & Co. except in a few Instances.

Upon the whole the Committee are of Opinion that as Mess<sup>rs</sup> Lawrence & Morris apprehended the Interest of the U. States had not been sufficiently attended to in the Contract for the present year there was a Propriety in their submitting to Congress such Information as they possess'd on the Subject; but upon this Occasion your Committee observe with Pleasure that, after the fullest Investigation, the Conduct of the Board of Treasury does not appear improper, as the present uncertain and deranged State of the federal Finances rendered a Publication of the Contract inexpedient and the Report of the Secretary at War justified its Formation upon the Prices stipulated therein.<sup>1</sup>

The Board of Treasury to whom was Referred a Memorial of George Joy, beg leave to Report:

That the Memorialist, as Agent for sundry Merchants in Europe, states that he is in repeated instances, offered Transfers of the Funded, or Registered Debt of the United States, as well as the circulating Certificates of the said States in payment, or as a Collateral Security; and that not being able to ascertain by any Acts, or Resolves of Congress, whether the Registered Certificates as above mentioned, have been liquidated at their Specie value, or whether they vest the property intended to be transferred completely and absolutely in the Persons to whom the same may be transferred, he Prays That the United States in Congress would be pleased to cause the above points to be made known in such manner, as in their Wisdom, shall be judged most advisable.

On the above Memorial the Board beg leave to state—

That the Certificates signed by the Register of the Treasury of the United States, are issued in pursuance of an Arrangement, estab-

<sup>1</sup> This report, in the writing of Lambert Cadwallader, is in the *Papers of the Continental Congress*, No. 19, III, folio 493. According to indorsement it was read October 26, 1786.



lished by the late Superintendent of Finance for reducing (as far as practicable) the various Evidences of the Domestic Debt of the United States, to one form.

That to facilitate this object, the Holders of any of the Certificates, which have been issued by the Commissioners duly authorised to adjust claims against the United States, and to give Certificates for the Balances found due, when liquidated at Specie value, are at liberty to exhibit the same to the Comptroller of the Treasury, who (on the same being Cancelled in his Office) issues a Warrant to the Register of the Treasury, directing him to enter of Record to the credit of the Party, at whose application the former Certificates have been Cancelled, the amount thereof; and to issue his Certificate for the same, as a Debt due by the United States.

That this Certificate when so entered, can only (agreeably to the forms of the Treasury) be transferred by the Party in whose behalf the same was entered, or his legal Representative attending for such purpose in Person.

From this statement of the origin and mode of Transferring the Certificates above mentioned, it is clear, that as they have been issued in lieu of others which had been given for Claims liquidated at their Specie value, they are, and must be considered of the same nature, in this respect, as the Original Certificates, and that the property of the same is actually vested in the Persons in whose names they are entered, or transferred agreeably to the mode above mentioned.

On examining the Journals of Congress we do not find that any mention has been made of the Certificates above mentioned, excepting in the Resolve of Congress of the 15<sup>th</sup> of April, 1784; by which the Superintendent of Finance is directed to Report the form of a concise power of Attorney for transferring such Certificates, and also the mode of executing such Power, both within and without the Jurisdiction of the United States.

As this Resolve however is not explanatory of the nature of the Certificates so to be transferred; and as it appears reasonable that the Holders of the Domestic Debt of the United States, should in this respect, stand on equal ground, The Board submit to the consideration of Congress the following Resolve:

*Resolved*, That the Certificates of the Domestic Debt of the United States, signed by the Register of the Treasury, are given for claims



liquidated at their Specie value, and must be considered of the same nature as the original Claims, and that the property of the same is vested in the Persons, in whose Names, they are entered or transferred in the Books of the Treasury.

All which is humbly submitted.<sup>1</sup>

October 26<sup>th</sup>, 1786.

<sup>2</sup> MONDAY, OCTOBER 30, 1786.

Congress assembled. Present, Massachusetts, New York, Pennsylvania, Maryland, Virginia, South Carolina and Georgia; and from New Jersey, Mr. [Josiah] Hornblower.

On a report from the board of treasury, to whom was referred their letter of the 17, enclosing a letter of the 10th, from William Ellery, esq: commissioner of the loan Office in the State of Rhode Island,

*Resolved*, That it would have been improper to have continued the issue of indents of interest in the State of Rhode Island and Providence Plantations, after the Act of the said State declaring their paper currency receivable in payment of federal taxes, and that the conduct of the Commissioner of the loan Office in the said State, in discontinuing, on that Account, the further issue of indents of interest, be, and it is hereby approved.<sup>3</sup>

The com. [consisting of Mr. Henry Lee, Mr. Charles Pinckney, Mr. Nathan Dane, Mr. Charles Pettit, and Mr. John Henry] to whom were referred the motion of Mr. [Arthur] St Clair, the motion

<sup>1</sup> This report, signed by Samuel Osgood, Walter Livingston, and Arthur Lee, is in the *Papers of the Continental Congress*, No. 138, I, folio 749. According to indorsement it was read October 26. Two accompanying, explanatory letters are on folios 753 and 757.

OCTOBER 26: The "Motion Mr. [Henry] Lee ascertaining the mode, for determining the rank of Officers in the service of the U. States" was referred to the Secretary at War to report.

*Committee Book No. 190.*

<sup>2</sup> Charles Thomson here resumes the entries.

<sup>3</sup> This report, signed by Samuel Osgood, Walter Livingston and Arthur Lee, is in the *Papers of the Continental Congress*, No. 138, I, folio 385.

of Mr. [Henry] Lee with the letter from the Governor of Virg<sup>a</sup> and the accompanying papers together with the letter from the Sec. at War dated Oct. 19<sup>th</sup> and all the enclosures report—

That these several matters arrange themselves under the following heads:

1<sup>st</sup>. The military preparations in the district of Kentucky for offensive operations against sundry Indian tribes.

2<sup>d</sup>. The treaty concluded between the U. States and the Southern Indians on which are grounded complaints from the states of No. Carolina and Georgia.

3<sup>d</sup>. Evidences of a general combination among the southern and western indians to prohibit the survey of the fœderal territory on the Ohio and to levy war on the frontier of the U. States.

With respect to the first your com. are of opinion that the executive of Virg<sup>a</sup> have conducted themselves in the measures which they have been pleased to direct for the protection of their citizens with the most profound respect to the sovereignties of the U. States and in perfect conformity to the Confederation and that the offensive operations commenced by the inhabitants of Kentucky are authorized by self preservation and their experience of the imbecility of the fœderal government.

With respect to the 2<sup>d</sup>, Your com. presume that an official report on the causes of disquietude which pervades the states of No. Carolina and Georgia may be expected from the superind<sup>t</sup> of Indian Affairs for the Southern department, previous to which any determination of Congress will be premature.

Respecting the 3<sup>d</sup>, your committee have the fullest conviction of the inimical disposition of the Indian tribes north west and south adjoining the territory of the U. States and are of opinion that this enmity is founded on the sentiments they hold relative to the inability of the thirteen gov<sup>s</sup> which opinion arises from the detention of the Western posts contrary to the treaty of peace by his brittannick majesty, nor can a change in the minds of the savages be effected but by the British troops abandoning the territory of the U. States. To accomplish this soon your com. recommend the following position of the fœderal forces on the Ohio: A detachment at Cayothoga, another at Sandusky, and headquarters at the head of the navigation of the Miami river which falls into lake Erie.

Among the many papers submitted to your com. is a le<sup>tr</sup> signed Legrass, an inhabitant of St. Vincents narrating certain evils which

oppress the good people of that country; to remedy which your committee consider it indispensably necessary immediately to extend the benefits of government to the Illinois settlements and in the meantime to prevent the continuance of the evils which are communicated by M<sup>r</sup> Legrass, they conceive it proper that the minister of war take order to reply to M<sup>r</sup> Legrass assuring him of the approbation of Congress and of their intention to establish without loss of time a government in the western country, till which period they recommend a perseverance in united measures calculated to defend the inhabitants from their indian enemy and to protect them from vagabonds and robbers; that a copy of M<sup>r</sup> Legrass letter to Gen. Clarke and his answer be transmitted to the Superind<sup>ts</sup> of Indian affairs.<sup>1</sup>

TUESDAY, OCTOBER 31, 1786.

Congress assembled. Present as yesterday.

The Postmaster General, to whom was referred his Letter of this Date, begs Leave to report:

That the Act of Congress of the 4th September last, instructing him to enter into Contracts for the Conveyance of the Mail by Stage

<sup>1</sup> This report, in the writing of Henry Lee, is in the *Papers of the Continental Congress*, No. 20, II, folio 321. According to indorsement it was read October 30. *Committee Book No. 189* states that it was transferred. Legrace's letter is in *Papers*, No. 150, II, folio 42.

OCTOBER 30: The letter of the Postmaster General, dated October 30, "respect\* contract for transportation of Mail" was referred back to the Postmaster General to report and report rendered November 2.

The letter from the Secretary for Foreign Affairs of October 26 "with letters from Chargé des Affairs and the Consul gen. of France" was referred back to the Secretary for report. Jay's letter is in No. 80, III, folio 129.

*Committee Book No. 190.*

Also was read, according to indorsement, a letter from Postmaster General Ebenezer Hazard dated October 30, forwarding intelligence from Frederick Green, Postmaster at Annapolis, informing that the Maryland legislature is considering taking control of the Maryland postoffice under the idea that Congress has control in interstate postoffice business and not within the state. Hazard's letter is in No. 61, folio 391.

Also was read a report of the Board of Treasury on the memorial of Constant Freeman for payment of a bill of exchange drawn by American officers, when prisoners in Quebec. The Board's letter, transmitting this report is in No. 140, I, folio 291. Freeman's petition is in No. 142, III, folio 143. *Committee Book No. 189* states that it was transferred.

Carriages, as it admits of no other Mode if this is practicable, may be productive of Consequences, very foreign, as he conceives, from the Intentions of Congress, and highly prejudicial to the Interests of the United States.

That as the Postmaster General is not left at Liberty to insist upon suitable hours for the Arrival and Departure of the Mails, he must submit to be regulated, in this particular, by the Proprietors of the Stages; and the Experience of the present Year has shewn that the Hours most suitable for them, are most inconvenient to the Merchants, whose Correspondence is the principal Support of the Post Office, and, if withdrawn, would prove the Ruin of the Department.

That, in his present Situation the Postmaster General cannot refuse to admit even exorbitant Demands for performing the Service.

From these Considerations the Postmaster General begs leave to recommend that it be

*Resolved*, That notwithstanding the Conveyance of the Mail by Stage Carriages may be practicable, yet the Postmaster General shall not be restricted to employ them for that Purpose, unless the Proprietors thereof will agree to receive and deliver the Mails at capital Offices in hours suitable for the Transaction of mercantile Business; and as it is probable that Post riders would give more Satisfaction upon some particular Parts of the Road. that he be authorised to employ them in such particular Cases.<sup>1</sup>

General Post Office

Oct<sup>r</sup> 30<sup>th</sup>, 1786.

A report from the postmaster general on the subject of forming a contract for the transportation of the mail, pursuant to the resolution of the 4 of September, being read,

A motion was made by Mr. [Rufus] King, seconded by Mr. [Melancton] Smith,

That the postmaster general be informed that the words "if practicable," in the resolution of the 4th of September, are not to be construed so as to bind him to form the contract for the transportation of the mail on terms inconvenient to the mercantile interest, or to comply with the extravagant demands of the Contractors.

<sup>1</sup> This report is in the *Papers of the Continental Congress*, No. 61, folio 393. According to indorsement, it was read October 31.



On the question to agree to this, the yeas and nays being required by Mr. [Rufus] King,

<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Gorham,	ay	} ay	Mr. Henry,	ay	} ay
King,	ay		Ramsay,	ay	
Dane,	ay		<i>Virginia,</i>		
<i>New York,</i>			Mr. Carrington,	ay	} ay
Mr. Lawrance,	ay		Lee,	ay	
Haring,	ay	} ay	<i>South Carolina,</i>		
Smith,	ay		Mr. Pinckney,	no	} div.
<i>New Jersey,</i>			Huger,	ay	
Mr. Hornblower,	ay	*	<i>Georgia,</i>		
<i>Pennsylvania,</i>			Mr. Houstoun,	ay	} ay
Mr. Pettit,	ay	} ay	Few,	ay	
Bayard,	ay				

So the question was lost.

#### WEDNESDAY, NOVEMBER 1, 1786.

Congress assembled. Present as before.

A motion was made by Mr. [Charles] Pinckney, seconded by Mr. [John] Bull, in the words following:

Whereas it appears that the resolution of the 4th of September last, authorizing and instructing the Postmaster general to enter into contracts for the transportation of the mails in stage-carriages, if practicable, so far as it respects the states of New Jersey, Pennsylvania, Delaware, Maryland and Virginia, is inexpedient, and that they might be conveyed upon more reasonable and convenient terms, should the postmaster-general be left at liberty to contract for the same, either by the stage carriages or post riders, as shall appear to him most conducive to the public interest: *Resolved*, That the postmaster-general be, and he is hereby empowered to contract for carrying the said mails through all or either of the states above mentioned, in such way and manner as shall appear to him most consistent with the public interest, giving, however, in all proposals for contracts which are equal or nearly so in expense, a preference to the conveyance by stage carriages. And whereas the intention of Congress in having the mails transported by stage carriages, was not only to render their convey-



ance more certain and secure, but by encouraging the establishment of stages to make the intercourse between the different parts of the Union less difficult and expensive than formerly; and as a discretionary power in the postmaster general, either to employ post riders or contract with the owners of the stage-carriages for conveying the mail in the states of North Carolina, South Carolina and Georgia, might interfere with the object for promoting and establishing the running of stages in the said states: *Resolved*, That so far as respects the states of North Carolina, South Carolina and Georgia, it is improper to alter the postmaster-general's present instructions, touching the conveyance of the mail through the same.

On the question to agree to this motion, the yeas and nays being required by Mr. [Charles] Pinckney,

<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Gorham,	no	} no	Mr. Henry,	no	} no
King,	no		Ramsay,	no	
Dane,	no		<i>Virginia,</i>		
<i>New York,</i>			Mr. Carrington,	ay	} div.
Mr. Lawrance,	ay	} no	Lee,	no	
Haring,	no		<i>South Carolina,</i>		
Smith,	no		Mr. Bull,	ay	} ay
<i>New Jersey,</i>			Pinckney,	ay	
Mr. Hornblower,	no	*	Kean,	ay	
<i>Pennsylvania,</i>			Huger,	ay	
Mr. Pettit,	no	} no	Parker,	ay	
Bayard,	no		<i>Georgia,</i>		
			Mr. Houstoun,	no	} div.
			Few,	ay	

So the question was lost.<sup>1</sup>

<sup>1</sup> NOVEMBER 1: A letter from James Jarvis was read, according to indorsement, offering to furnish the United States with three hundred tons of copper coin. It was referred to the Board of Treasury to report. It is in the *Papers of the Continental Congress*, No. 139, folio 491. A report on this and various similar proposals, was read in Congress April 7, 1787.

Also was read, a long letter, dated October 12, from Thomas Hutchins, from the junction of the Wheeling and Ohio rivers, reporting the progress of the survey of the Western Territory and the Indian situation. It is in No. 60, folio 261 and enclosed various intelligence, which is on folios 273-279.

THURSDAY, NOVEMBER 2, 1786.

Congress assembled. Present as before.

GENERAL POST OFFICE, *Nov: 2<sup>d</sup>, 1786.*

SIR: The Proprietors of the Stages have delivered in their Proposals for carrying the Mails next year, and I find so very material a Difference between the Sums now paid them, and what some of them expect in future, that I should think myself guilty of Unfaithfulness in Office should I accept their offers without first reporting them to Congress.

Your Excellency will observe from the particular Statement accompanying this, that the Eastern Proprietors have risen very considerably in their Demands; they alledge that they can not alter their hours of Arrival and Departure (except the hour of Arrival at this City) without lossing half their Passengers, and therefore cannot consent to a change in this Respect.

It need not be remarked that their hours are very inconvenient, and that upon their Plan the Office in this City must be kept open all Day on Sunday for the Receipt of Letters. M<sup>r</sup> Hall, who has been so irregular this year, is one of those Proprietors; and, from the Embarrassments he labours under, it is not probable that he will perform better in future, and he has the longest Stage on that Route.

While I am writing, one of the Eastern Proprietors has called to inform me that through a Mistake two of them have stated their Demands too low; if it is rectified as he proposes, there will be an Addition of Two hundred and twenty-six Dollars to their Prices.

The present Contractors between New York and Philadelphia are very exorbitant in their Demands. Dennison's are much more moderate. No Stages can do the Business so well on this Route as Post Riders; but as there will be a considerable Saving if Stages are employed, and as the public Convenience will be consulted by a Change of Hours, I apprehend that a Continuance of the present mode of Conveyance between those two Cities will be satisfactory.

Your Excellency will recollect that in my Letter of July 11<sup>th</sup>, 1785, I gave it as my Opinion that Stages might be advantageously employed to the Southward of Philadelphia; the experience of this year confirms me in that Opinion, notwithstanding there have been very great Irregularities (many of which were undoubtedly unavoidable) and som criminal Neglects but these may be guarded against in the new Contract.

Upon the whole I beg Leave to recommend the Transportation of the Mail on Horseback between Portland and New York, and by Stages from New York to Savannah.

I have the honor to be, etc.

EBEN. HAZARD.<sup>1</sup>

FRIDAY, NOVEMBER 3, 1786.

Congress assembled. Present, as before.

On motion of Mr. [William] Houstoun, seconded by Mr. [John Bubenheim] Bayard,

*Resolved*, That the several matters now before Congress, be referred over and recommended to the attention of the United States in Congress assembled, to meet at this place on Monday next.

On motion of Mr. [Henry] Lee, seconded by Mr. [John Bubenheim] Bayard,

*Resolved*, That the thanks of Congress be given to his Excellency Nathaniel Gorham, for his able and faithful discharge of the duties of President, while acting in that important station.

<sup>1</sup> This report is in the *Papers of the Continental Congress*, No. 61, folio 283. According to indorsement it was read November 2.

NOVEMBER 2: The following committee was appointed:

Mr. [Edward] Carrington, Mr. [Charles] Pinckney, and Mr. [William] Houstoun, on "Motion Mr Carrington respecting stage carriages Postmaster's letter of 2 and Motions." Report was rendered November 3.

Also a "Meml N. Twining and a Motion for reducing postage" was referred to the Postmaster General to report. He reported November 3.

*Committee Book No. 190.*

Also, according to indorsement, was read a letter from Secretary at War, Henry Knox, forwarding intelligence from the western country. It is dated November 1 and is in No. 150, II, folio 111. Its enclosures are on folios 115-135.

Also was read a letter from Secretary for Foreign Affairs, John Jay, forwarding a letter from Thomas Barclay announcing the success of his mission to negotiate a treaty with Morocco. Barclay's letter, dated July 31, is in No. 91, I, folio 156; Jay's, which suggests the expedient of letting the decision of Congress on the British list of grievances follow the Act for raising troops, is in No. 80, III, folio 141.

The Com. Consisting of [Mr. Edward Carrington, Mr. Charles Pinckney, and Mr. William Houstoun] beg leave to report in part the following Resolution:

That the Post Master General be directed to enter into Contracts, in pursuance of the instructions heretofore given him; for the conveyance of the Mail from Portland in Massachusetts to Savanna in Georgia, with either the proprietors of the Stages or post riders, so as to suit the convenience of the Mercantile business, provided that upon propositions which may be equal or nearly so preference be given to the Stages.<sup>1</sup>

The Board of Treasury to whom was referred a Motion of the Hon<sup>ble</sup> the Delegates of the State of Pennsylvania, praying that the Sum of Seventy-eight thousand, six hundred and forty-two Dollars, which had been lately delivered to the Comptroller of the State of Pennsylvania in Bills of Credit of that State, bearing date in the Year 1781, might be placed to the Debit of the General Account of said State, with the United States, Beg leave to Report to Congress:

That the above sum of 78,642 Dollars, forms part of the Sum of 390,000 Dollars, in Bills of Credit issued in the Year 1781, in the State of Pennsylvania, and received by the Commissioner of the Loan Office in that State, in pursuance of an Agreement made between the late Superintendent of Finance, and the Government of the State of Pennsylvania; by which it was stipulated, that the Sum of 390,000 Dollars in the Bills above mentioned should be paid into the Continental Loan Office, to redeem the like Sum of the New Emission Money of the 18<sup>th</sup> March, 1780; being a Balance due to the United States of the Four-tenths of the said Money emitted on the Funds of the State of Pennsylvania.

That the above Sum of 390,000 Dollars, appears accordingly to have been received by the Commissioner of the said Office, but that no part of the New Emission Money of the 18<sup>th</sup> March, 1780, was in Exchange therefor delivered over by the late Superintendent of Finance.

That in consequence of an application made to this Board by the Commissioner of the Loan Office of the State of Pennsylvania stating the circumstances of the Negotiation above mentioned, and that he

<sup>1</sup> This report, in the writing of Edward Carrington, is in the *Papers of the Continental Congress*, No. 61, folio 553. According to indorsement the "question lost."

had applied to the use of the United States, out of the sum of 390,000 Dollars, by him received of the Treasurer of the State of Pennsylvania, the Sum of 311,350 Dol<sup>s</sup>. The Board informed the said Officer, that though this transaction had not come under their cognizance, they had no objection to his delivering over to the Treasurer of the State of Pennsylvania, the sum of 311,358 dollars in New Emission Money of the 18<sup>th</sup> March, 1780, in lieu of the like Sum in Pennsylvania State Money, said to have been appropriated to the use of the United States; and the Balance being 78,642 Dollars in the same Money, which he had received from the Treasurer of the State.

That it appears from a Letter to this Board of the 28<sup>th</sup> August last from the Commissioner of the Loan Office in the State of Pennsylvania, that in pursuance of our directions, and by Agreement with the Comptroller of the State of Pennsylvania, he had paid into the Treasury of the said State in New Emission Money of the 18<sup>th</sup> March, 1780----- 311, 358  
In Pennsylvania State Money of the Year 1781----- 78, 642

390, 000

taking temporary receipts for the said Payments, which were made at different times, but that on his Application for a formal Receipt acknowledging that the above payments were in complete discharge of the Sum of 390,000 Dollars received of the State of Pennsylvania, in State Money of the year 1781, the Comptroller of the State would not permit such a receipt to be given, and peremptorily demanded the Sum of 78,642 Dollars in New Emission of the 18<sup>th</sup> March, 1780, alledging that the State would give Credit for the Sum, which had been received in the State Money as aforesaid.

That on a refusal on the part of the Commissioner of the Loan Office of the State of Pennsylvania, to pay the Sum required of him in the New Emission Money of the 18<sup>th</sup> March, 1780, an attachment has been laid on his Goods, and Effects to the amount of the Sum above mentioned, and to suspend the execution of the same a Certiorari has been granted, the merits of which are still depending.

In justice however to the State of Pennsylvania, it is incumbent on us to observe, that this process of the Comptroller, is in this instance, altogether repugnant to the Laws of the State, so far as they relate to matters of account betwixt that State, and the Union; since by an Act of that State, it is made the duty of the Comptroller, to distinguish such Accounts as are of a Federal nature, in order that



they may be Adjusted on such principles, as shall be proposed by the United States in Congress, and agreed to on the part of the State: That the Account for which the Property of M<sup>r</sup> Smith is Attached, was in the opinion of the Comptroller of the State, of that nature, appears clearly from his application by Letter to this Board, to direct the Loan Officer to give up to the State the full Sum of 390,000 Dollars in the New Emission of the 18<sup>th</sup> March, 1780.

From the above statement, which it becomes the duty of the Board to lay before Congress in order to enable that Honorable Body to judge of the propriety of the present Application, the Board beg leave to observe—

That the Sum of 78,642 Dollars in Pennsylvania State Money, which was paid into the Treasury of that State, in pursuance of the Negotiation above mentioned, must either be considered in full discharge of the Balance due to the State, on the Monies by them paid to the Commissioner of the Loan Office of the State of Pennsylvania, or it must not.

If it is to be so considered; then there is no necessity of giving the State of Pennsylvania Credit for the Monies above mentioned, because the Negotiation betwixt the late Superintendant of Finance, and the Government of Pennsylvania, is by such arrangement completely Settled.

If it is not to be so considered; then the State of Pennsylvania, will have a right to the Sum of 78,642 Dollars, in the New Emission Money of the 18<sup>th</sup> March, 1780; (provided a sufficient Sum in old Continental Emissions be paid in by the said State, to admit the right of Issuing such an amount of the Emission last mentioned) and the United States will have a right to reclaim of the Treasurer of the State of Pennsylvania, the Sum of 78,642 Dollars in State Money of the Year 1781, which the Comptroller obtained possession of, in the manner stated in this Report.

From the process issued on the part of the State of Pennsylvania it appears that the State view their Claim in the light last mentioned, Considering it therefore in the same point, of view, We beg leave to Observe.

That an application for the above sum of 78,642 Dollars in the Pennsylvania State Money, to be passed to the Debit of that State as so much Specie, must be considered on similar principles, as if an Application had been made for giving up and passing to the Debit of a State, a like Sum in the New Emission Money of the 18<sup>th</sup> March,

1780, of the proportion which was subject to the orders of the United States; And that the reasons therefore which has governed this Board, on an Application from the State of New York relative to a Sum of New Emission Money, issued on the Funds of that State, will in their opinion, apply in the present instance.

On the reference last mentioned, it was observed by the Board, "That a change of the Credit of Monies paid into the General Treasury, in pursuance of the Resolves of the 18<sup>th</sup> March, 1780, in any one instance, would operate as a relinquishment of the Balances due from the several States on that head; and that such relinquishment was not compatible with the exhausted State of the Finances, or with that steady adherence to the execution of the Resolves of Congress which ought to govern in the Collection of the General Revenue."

To this general Observation the Board beg leave to add: That the Funds established in several States for the redemption of the New Emission Money, are now operating so as to render the said Money daily more valuable; that in consequence they have already appropriated part of those Monies in the States of New York, Maryland, and Virginia; that it would be injustice to these States to make a distinction with respect to Pennsylvania; and that whilst the preservation of the Western Territory, obliges the United States in Congress to introduce a more extensive Military establishment than was provided for in the Estimates of the last and present Year, every resource ought, in their opinion, to be carefully cherished, which has a prospect of contributing to the discharge of the Expences of the General Government.

From the circumstances above stated, the Board submit to the consideration of Congress, the following Resolve—

That it would be improper for the United States in Congress to pass to the Debit of the State of Pennsylvania, in their general Account with the United States, the Sum of Seventy-eight thousand six hundred and forty-two dollars, of Bills of Credit, issued by that State in the Year 1781, and received by the Commissioner of the Loan Office in the said State, by virtue of a Warrant of the late Superintendent of Finance of the 16<sup>th</sup> July, 1781.

All which is humbly Submitted.<sup>1</sup>

October 31<sup>st</sup>, 1786.

<sup>1</sup> This report, signed by Samuel Osgood, Walter Livingston, and Arthur Lee, is in the *Papers of the Continental Congress*, No. 139, folio 421. According to indorsement on the accompanying letter, folio 417, it was read November 3.

MONDAY, NOVEMBER 6, 1786.

Pursuant to the articles of Confederation and perpetual Union, the following gentlemen attended as delegates:

From Massachusetts,	From Maryland,
Mr. [Nathaniel] Gorham,	Mr. [John] Henry,
Mr. [Rufus] King,	[Nathaniel] Ramsay,
New York,	
Mr. [John] Lawrance,	South Carolina,
[John] Haring,	Mr. [John] Bull,
[Melancton] Smith,	[Charles] Pinckney,
New Jersey,	[John] Kean,
[Josiah] Hornblower,	[Daniel] Huger,
Pennsylvania,	
Mr. [Charles] Pettit,	Georgia,
[John Bubenheim]	Mr. [William] Few.
Bayard,	

The Board enclosed copies of sundry documents relating to the dispute; these are on folios 429-447.

NOVEMBER 3: The memorial of John Snowden, praying a settlement of his accounts as Conductor of Military Stores in 1778-80 was referred to the Commissioner for settling Quartermaster Accounts to report. Snowden's memorial dated November 2, is in No. 42, IX, folio 423. According to indorsement it was read November 3. Reported on February 7, 1787, it was acted on March 8, 1787.

Also the Postmaster General was directed to take order on "his report on M<sup>r</sup> Twining's mem<sup>t</sup> viz. That M<sup>r</sup> Twining has undoubtedly made very extraordinary and successful exertions in opposition to uncommon difficulties for the establishm<sup>t</sup> of an extensive line of stages, which various testimonies induce the postmaster gen<sup>t</sup> to believe will be of great public utility; and from M<sup>r</sup> Twining's drafts upon him for money the P. M. gen<sup>t</sup> is led to think that much dependance has been placed on the contract with the gen<sup>t</sup> Post Office for assistance in defraying the heavy expences wch necessarily attend such an establishment<sup>t</sup>. Should this resource fail so soon, the Establish<sup>t</sup> yet in its infancy must at least languish, the public sustain an injury and M<sup>r</sup> Twining, notwithstanding his merit in this instance probably be ruined. And as the next contract will furnish an opportunity for obtaining satisfaction for any neglects during the present year, the Post M<sup>r</sup> gen<sup>t</sup> begs leave to recommend that M<sup>r</sup> Twining's present quarter's pay be not detained after it shall become due, but that such deductions as the justice due to the United States may demand may be made hereafter, which is respectfully submitted."

*Committee Book No. 190.*

The Commonwealth of Massachusetts, To our trusty and well beloved  
[SEAL] Nathaniel Gorham, Esq<sup>r</sup> of Charleston in our County of  
Middlesex, Greeting:

Whereas the General Court of our Commonwealth aforesaid did on the twenty-seventh day of June A<sup>o</sup> D<sup>i</sup> 1786, agreeable to the Constitution of our said Commonwealth appoint The Honble. Nathaniel Gorham, esq<sup>r</sup> a Delegate to represent our said Commonwealth in the Congress of the United States for one year commencing the first Monday in November, 1786.

Now therefore Know ye that we do by these presents and in pursuance of the said appointment Commission you the said Nathaniel Gorham Esq<sup>r</sup> to represent our said Commonwealth in Congress, and vest you with all and singular the powers and authorities to the said Office or place of Delegate belonging by virtue of the Constitution of said Commonwealth and the appointment aforesaid and to hold said Office until the first Monday in November, 1787. And you the said Nathaniel Gorham Esq<sup>r</sup> are hereby required to observe the instructions which from time to time shall be given to you by the General Court of our said Commonwealth.

In Testimony whereof we have caused our Publick Seal to be hereto affixed.

Witness James Bowdoin Esq<sup>r</sup> our Governor and Commander in Chief at Boston the fourteenth day of October, A. D. 1786, and in the Eleventh Year of the Independence of the United States of America.

JAMES BOWDOIN.

By His Excellency's Command:

JOHN AVERY, *jun.*<sup>r</sup> Secretary.<sup>1</sup>

STATE OF PENNSYLVANIA,  
IN GENERAL ASSEMBLY,  
*Tuesday October 31<sup>st</sup>, 1786, A. M.*

Agreeably to the order of the day the House proceeded to the election of Delegates to represent this State in the Congress of the United States and the ballots being taken, it appeared that the Honorable Arthur St. Clair, Charles Pettit, William Irvine, Samuel

<sup>1</sup> This commission is in the *Papers of the Continental Congress*, Massachusetts, *Credentials*. It is also entered in *Record of Credentials*, No. 179, where it is noted as read November 6.

Meredith, and William Bingham, Esquires, were duly elected.  
(Extract from the Minutes.)

I. SHALLUS, *Asst. Clk.*<sup>1</sup>

**TUESDAY, NOVEMBER 7, 1786.**

The same as yesterday; and from Maryland, Mr. [William] Hindman. and from North Carolina, Mr. [William] Blount.

**MONDAY, NOVEMBER 13, 1786.**

The same as before.

**MONDAY, NOVEMBER 20, 1786.**

The following gentlemen attended:

<p>From Massachusetts, Mr. [Rufus] King, New York, Mr. [John] Lawrance, [John] Haring, [Melancton] Smith, New Jersey, Mr. [Abraham] Clark, Pennsylvania, Mr. [Samuel] Meredith, [William] Bingham, Maryland, Mr. [John] Henry, [Nathaniel] Ramsay,</p>	<p>From Virginia, Mr. [William] Grayson, [Edward] Carrington, North Carolina, Mr. [William] Blount, South Carolina, Mr. [John] Kean, [Daniel] Huger, [John] Parker, Georgia, Mr. [William] Few.</p>
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In the *Name* and by the *Authority* of the FREEMEN of the Commonwealth of PENNSYLVANIA.

[SEAL] The Supreme Executive Council, of the said Commonwealth, To The Honorable Samuel Meredith Esquire:

WHEREAS, *The General Assembly of this Commonwealth have, by their Act of the thirty-first Day of October in the Year of Our Lord one thousand seven hundred and eighty-six elected you a Delegate to represent this State in the Congress of the United States, You are therefore hereby commissioned as such.*

<sup>1</sup> This certificate is in the *Papers of the Continental Congress, Record of Credentials*, No. 179. Thomson has noted in the margin "Produced Nov. 6, 1786."



*Given in Council, under the Hand of The Honorable Charles Biddle esquire, Vice President, and the Seal of the State, at Philadelphia, this second Day of November in the Year of our Lord one thousand seven hundred and eighty-six.*

ATTEST. JOHN ARMSTRONG JR., *Secy.*<sup>1</sup>

FRIDAY, NOVEMBER 24, 1786.

The same as before; and from New Jersey, Mr. [James] Scheurman, and from Maryland, Mr. [William] Harrison.

MONDAY, DECEMBER 4, 1786.

The following gentlemen attended, viz.

From Pennsylvania,	From North Carolina,
Mr. [Samuel] Meredith,	Mr. [William] Blount,
Maryland,	South Carolina,
Mr. [John] Henry,	Mr. [Charles] Pinckney,
[William] Harrison,	[John] Parker,
[Nathaniel] Ramsay,	Georgia,
Virginia,	Mr. [William] Few.
Mr. [William] Grayson,	
[Edward] Carrington,	

Mr. [William] Blount informed, that the hon<sup>ble</sup> Abner Nash, his colleague, died on Saturday last, having directed his corpse to be deposited in his family vault in North Carolina; Mr. [William] Blount, therefore, desired to know whether it be necessary that the rites of burial should be performed here, and if so, in what mode. Whereupon the gentlemen were of opinion, that the rites of funeral be performed here in the forenoon in the usual mode, and that Mr. [William] Blount, Mr. [Edward] Carrington and Mr. [Charles] Pinckney superintend the funeral.

After this time the gentlemen attended occasionally, till the 17 January, 1787, when Congress assembled as follows:

<sup>1</sup> This credential is in the *Papers of the Continental Congress*, Pennsylvania, *Credentials*. It is entered also in *Record of Credentials*, No. 179, where Thomson has noted that it was read November 20.

William Bingham's credential, exactly the same in form and date, was also read and recorded as was Meredith's.



NOTES OF DEBATES IN THE CONTINENTAL CONGRESS  
PINCKNEY'S SPEECH

933



MR. CHARLES PINCKNEY'S SPEECH, IN ANSWER TO MR. JAY, SECRETARY FOR FOREIGN AFFAIRS, ON THE QUESTION OF A TREATY WITH SPAIN, DELIVERED IN CONGRESS, AUGUST 16, 1786.

MR. PRESIDENT: The Secretary for Foreign Affairs has reported, that, in consequence of the commission and instructions he had received from Congress for the purpose of negotiating with Mr. Gardoqui, he has had several conferences with him upon this subject.

That he had received an offer from Mr. Gardoqui to enter into a commercial treaty upon certain principles, but that he insisted as a part of the treaty, that Spain and the United States should fix the boundaries of their respective territories; and that the latter should relinquish all claim to the right of navigating the river Mississippi.

The Secretary adds, as his opinion, that a treaty may be formed with Spain, upon principles which he then stated, upon the United States forbearing to assert their right to navigate the river for twenty-five or thirty years; and used some arguments to prove the policy of our acceding to this arrangement with her.

In investigating this subject, it is proper to follow the Secretary, and examine

1<sup>st</sup>. The reasons he has stated, and which ought, in his opinion, to induce us, at this time, to wish the formation of a commercial treaty with Spain.

2<sup>dly</sup>. The offers which Spain has made, and the terms upon which a treaty may be concluded with her; the benefits to be derived from it, and the manner in which they will operate upon the different parts of the union.

3<sup>dly</sup>. The price that is to be paid for the treaty, and the consequences that will probably attend the United States stipulating to suspend the assertion of the right for a given term. And

4<sup>thly</sup>. The policy of Congress's concluding a treaty at all at this time.

I will agree that an equal commercial treaty would be of more advantage to this country, with Spain, than with any other in Europe, except Portugal; but I am not convinced that the relative situation of Spain and the United States is such as ought to render us, at this



time, particularly anxious to conclude a treaty upon the principles proposed.

It is thought, if a difference should exist between us, that France will probably be the friend of Spain; as her close connection by compact, and the benefits she derives from her alliance with Spain, are greater than any she can expect from America. If I understand the politics of France, or if we are to depend upon our communications from thence, we are to suppose that her present system, is a system of perfect peace. She is laboring to repair the expences of the late war, to arrange her finances, and by every possible exertion to augment her marine. She is generally esteemed, what politicians stile, "the ruling power," at present in Europe; and it is more to her interest, and more gratifying to her ambition, to maintain this situation, than by improperly interfering in matters comparitively unimportant, to risque a premature contest with the rival power. I call that a rival power, which not being equal to her upon the whole, still comes nearer this equality than any other—and this is England. France may mediate, but as we are to presume she will always be governed by her interest, she will never risque a contest if she can avoid it, that must involve her with Great Britain and this country, merely to support Spain in the impolitic demand of shutting the Mississippi.

Though the animosities of Great Britain are still warm, yet there is sufficient wisdom in her councils to make them yield to her interest. Though she loves us not, she hates France and Spain, and would avail herself of any opportunity, even upon less than equal terms, to strike a blow. With them she never can be in any other than a rival situation; with us, when the present differences shall have terminated, it will ever be her interest to be closely connected. Our language, governments, religion and policy, point to this, as an alliance that will hereafter be formed, as most likely to be permanent and productive of good consequences. In a war with France and Spain, the contiguity of the United States, and the convenience of their ports and supplies, would render the aid of this country peculiarly important in any enterprise against their islands.

We also know, if any respect is to be paid to the intelligence and communications of Mr. Adams, your Minister at the Court of London, that the cabinet of Great Britain are at this time turning a serious eye to South America. The divesting, he says, Spain of that country,

and opening to it a free trade, is considered by them as of the first importance, and if any event should take place in which even a distant hope of accomplishing this object should offer, there can be no doubt of her availing herself of it.

So far therefore from fearing the additional weight of Great Britain, we are to presume if she suffers her interest and her wishes to prevail, that she will importantly interfere in our favour.

The connections of Spain and her influence in Portugal, even if they could ever be of much service, which is very doubtful, can be of no consequence at present, as our latest advices from thence warrant a belief that a treaty between Portugal and the United States has long since been concluded.

It does not appear that any beneficial effects are to be expected from her influence in our favour with the States of Barbary: there is but one mode of obtaining a pacification with them; the price of peace must be paid. You are informed by Mr. Jefferson, that in a late conversation he had with the Count Vergennes upon the subject of a treaty with the Porte, and the aid of his influence to procure a peace with them, the Count informed him, that even in that case, and notwithstanding they owe the Porte a distant tribute, his interference would not procure you a peace a moment sooner, nor a shilling cheaper; in short, that a pacification would be as difficult, and their terms as extravagant as at present: If therefore the influence of Constantinople would be unsuccessful, how is it to be expected that the friendship of Spain would be useful?

Of no more weight is another opinion, which supposes the influence of Spain will promote our interests with the Italian States; true it is that the king of Naples is the son of the king of Spain, but until a peace is made with the States of Barbary, the friendship of the king of Spain will be but of little protection to your commerce in the Mediterranean. Effect this, and the Italian States will all be ready to receive you upon the same liberal terms without treaty, which one has already offered.

Upon investigating the situation of Spain, it will be found she has strong reasons to be particularly anxious to treat with you at this time.

Independent of the knowledge she must have of the intentions of Great Britain, she views with a jealous eye the emancipation of these States, and dreads their neighbourhood to her rich and extensive,

tho' feeble colonies of South America. She is desirous to prevent an intimacy between them, well knowing the danger of such an intercourse. Hence we find she holds the deserts of Florida as a barrier, and wishes to deprive our citizens of the use of the Mississippi, hoping by these means to postpone an event which she dreads, and fears is at no considerable distance. Being acquainted with your situation, the deranged state of your finances, and the inefficacy of your government, she thinks that this is the time to push her demands, and supposes your distress will force you into a compliance; but I still trust our inconveniencies when compared to her's, are but temporary. A little firmness and perseverance on the part of Congress, and of recollection on the part of the States, may yet subdue all our difficulties; whereas the Spanish Monarchy carries in its bosom the seeds of its dissolution. Our situation, though unpleasant, is not yet sufficiently desperate to force us into measures derogatory to our national honor. Spain has more to risque, and more to dread from a rupture than we can fear, and though it is undoubtedly her interest to treat at present, it can be only ours on very advantageous terms.

As to the second point, Spain consents to treat with us upon what she terms principles of perfect reciprocity; importation to be freely made in each other's vessels; the duties to be paid by each in the ports of the other, the same as those paid by the natives; masts and spars to be purchased of the United States, for the use of the navy of Spain, and paid in specie, provided they are as good and as cheap as those procured from the Baltic; permission to go to the Canaries, and Mr. Gardoqui has no personal objection that we should have liberty to go to the Philippines, his instructions however do not reach this; her ports in the West Indies and in South America to be shut, and the article of tobacco to be prohibited in her European ports.

In return we are to admit her subjects freely into all the ports we have, without any exception of articles, upon the footing of natives, and to stipulate the forbearance of our right to navigate the Mississippi for a given term.

In examining this point it must be observed, though the treaty proposes a perfect reciprocity, this reciprocity will be the more or less advantageous, as the commerce of the respective powers is the more or less free in their own ports.

The United States are a free, and Spain is an absolute, government; it is the policy of the former to promote and encourage their com-

merce, hence their duties are but trifling and easily paid; the impositions and fetters of the latter have almost ruined it, and though our merchants are to be on the footing of natives, yet it is beyond a doubt they will pay four, and in some instances six times as much as their merchants will in our ports; so that the reciprocity here mentioned does not, or cannot exist. The Spanish productions will, in most instances, be imported here at two, and two and a half, and if the impost should operate, at five per cent. The American into their ports in the one case at four times, and in the other at double the sum.

At present American produce is generally sold in the Spanish ports on board the vessel; the purchaser pays the custom and duties, making the necessary deductions, so that though they are large and reduce the value of the commodity, they never appear on the account sales rendered by the consignee.

The duty on eatables, by which I suppose is meant all kind of provision, of grain, or otherwise, is called million, and calculated generally at ten per cent. at Cadiz, but differs materially in the several towns and provinces. The duty on merchandize imported, may be generally estimated at 25 per cent.

Ricard, in his *Traite du Commerce*, takes notice of an extra duty paid on exportation on foreign bottoms from Cadiz, of 150 reals vellon per pipe on wine, equal to 34s. but the merchants there in making out their invoices charge the wine and brandy *on board*, at certain prices, including all duties and charges, which leave us unacquainted with the exact sum.

The duties on vessels going to South America are extremely high, not less than 25 per cent. ever, and in many cases much higher.

The articles with which Spain is now supplied from this country, she receives upon terms equally beneficial with those proposed by the treaty, and so advantageous is this trade to her, that there cannot be the most distant danger of her ever shutting her ports against us; she does not produce them, and they are necessary and essential to her, it is therefore her policy to open her ports to all that do; this creates a competition, and she is always sure of being well and cheaply supplied. The object of the treaty is therefore unimportant, because it is only to secure that partial intercourse with Spain which now exists, and which it will always be her interest to promote.

The project goes farther and proposes to purchase your masts and spars, provided they are as good and as cheap as she can procure them from the Baltic. This is a stipulation of no consequence. If



you have masts and spars of equal size and fitness with those imported from the Baltic, you will always find purchasers. Spain is a maritime power, she has no territories producing timber of this kind, but masts and spars are and must be always wanted for her navy. Will it not therefore be her interest to encourage as many to bring them to her ports as she can? Most clearly it will.

I am told by merchants of repute, and connected in the Spanish trade, that the common timber of this country cannot but rarely, if ever, be exported as good and as cheap as that from the Baltic. In proof of this, they have appealed to all the shipments that have been made since the war; scarcely one of which has done more than pay the mere freight, sinking the original cost of the timber.

Spain generally produces as much wheat as her inhabitants consume, except in those years when their crops are lost by drought, which is once in three or four. The wheat to supply this, and their islands, and American colonies, they generally procure from Sicily and Poland, and purchase the American wheat when it is as good and as cheap; but they by no means depend upon it. Their European markets however, are always open to it; and to every other kind of provision; nor while they consult their interest will they prohibit it. So that it appears, as far as your articles are useful and necessary, and it is their interest, so far will they open their ports to you; but in the lucrative and truly important trade of their islands and other dominions, or whatever they are afraid of a rivalry, there you are to be prevented.

It is said, however, that Mr. Gardoqui is not personally averse to our going to the Philippines, and that from thence in all probability some intercourse will be established with Acapulco. If we are to believe Mr. Gardoqui, when he says it is an invariable maxim of Spanish politics, to exclude all mankind from trading with their colonies and islands, it appears to me that we are rather to consider this as a ministerial finesse, than amounting to anything like a certainty that permission will be obtained; but suppose it is: One rich ship sails every year from Acapulco to one of the Philippine islands, and returns laden with the commodities of the East Indies. It is not to be supposed it will be very easy to elude the Spaniards, whose duty it will be to prevent your interfering with the South American trade. But grant for a moment they connive at it, what great advantages are to be expected from your citizens in this remote and expensive voyage, being suffered to participate in the cargo of a



single ship? An individual or two may make their fortunes, but surely no solid advantages are to be derived to the union from this distant and precarious commerce. In short, Sir, as I have observed, this appears to me no more than a ministerial finesse, to which his instructions do not, nor ever will reach.

But in order to bring the objects of the proposed treaty more clearly before the view of the house, permit me to examine them, as they may affect the different states in their operation.

The New England states (in which can be scarcely included New Hampshire and Connecticut, their European commerce being inconsiderable, and Rhode Island not extensive) enjoy at present a beneficial trade with Spain, in the export of their fish, lumber, and other articles, for which they receive valuable returns. Their peltry trade is of no consequence, nor except in the articles mentioned have they any considerable export that will suit the Spanish European markets. The Spaniards have no fisheries of their own; they consume a great quantity of fish, and are always in want of timber; they will therefore find it their policy to keep their ports open to all the nations that will bring them. Spain does not offer to give us exclusive privileges or preferences, but leaves herself at liberty to form treaties with whom she pleases. The French, in virtue of the family compact, are entitled to the privileges of the most favored nation; and if we examine the treaties of commerce that have formerly existed between Great Britain and Spain, particularly that of 1667, which is the ground work of all their future treaties, and those of 1713 and 1715, we shall find these nations have been in the habits of a commercial intercourse for a great number of years. The policy of Europe at present, seems to be peace and commerce. The English and French are pushing their fisheries with astonishing exertions, and endeavouring to depress ours, while therefore Spain in her treaty proposes no advantages that we do not now enjoy, and which it can never be her interest to curtail, and while she leaves herself open to trade with other nations who may attempt to rival them; I cannot see any particular benefit that will result even to the New England States, under the present project.

New York and Pennsylvania have the power of exporting wheat and staves, and some other articles; their wheat is valuable in proportion to the scarcity, and failure of crops, and depends upon the contingencies I have already stated; under the treaty nothing more is proposed to them. New Jersey not being an importing State, cannot

be materially interested. Maryland and Virginia may export as they do at present, some wheat and lumber; their great staple tobacco is expressly prohibited, and to remain under its present regulations, so that while the latter must be more injured than any State in the union, by the cession, she will be the least benefitted under the treaty. The tobacco of North and South Carolina, and Georgia, is in the same situation, nor will the sale of their other productions be promoted. Indigo, one of their staple commodities, is the product of the Spanish American Islands and Colonies in much greater quantities than they can consume, and of a superior quality to that made in the Southern States, so that there does not remain a probability of this ever becoming an article of commerce.

Rice is always in such demand in Europe, that it wants not the aid of a treaty, nor if it did, would those States which produce it, wish an advantage at the expence of the rights and possessions of any part of the Confederacy.

I trust that upon a candid and disinterested view of the proposed arrangement the partial, not to say ungenerous, manner in which it is offered, and the few advantages to be derived from its operation, which we do not at present enjoy, that Congress will be induced to suppose it is not an offer of that liberal and extensive kind, which promises a lasting or mutually beneficial intercourse, nor does it hold out such privileges as we might have expected from a power who wishes to tempt us to even the temporary surrender of an important national right. In my judgment she proposes nothing more than she will always be willing to grant you without a treaty, and nothing which can be termed an equivalent for the forbearance she demands.

The true mode to determine this, is to examine the nature and consequences of the demand she makes, on our compliance with which alone a treaty may be formed with her.

It is to forbear the assertion of the right of the United States to navigate the river Mississippi, for the terms of 25 or 30 years. It is said the treaty will not be concluded without this stipulation: That the navigation is unimportant, and that a forbearance will be no sacrifice, as Spain excludes us by force, and will continue to do so; that it would be disgraceful to continue the claim without asserting it; that war is inexpedient, and that the best way would be to enter into a treaty with them, and consent to suspend the claim for a certain time.

The right of the United States to navigate the Mississippi has been so often asserted, and so fully stated by Congress, that it is unnecessary to say any thing upon this subject, particularly as the Secretary in his Report appears to be in sentiment with Congress. But if the treaty proposed was of the most advantageous nature in other respects, while it insisted upon the forbearance, I should think the impolicy of consenting to it, must be obvious for the following reasons:

Because the sale and disposal of the lands ceded in the western territory, has ever been considered by Congress as a sufficient fund, under proper management, for the discharge of the domestic debt. Large sums of efficient money have already been expended in quieting the Indians, purchasing their rights of soil, and in sending out persons to survey it. The offers which are to be made the purchasers, and already established by your resolutions, are the protection and support of the Union; the establishment of republican governments, and the equal enjoyment of all the privileges of citizens of the United States. To those in the least acquainted with that country, it is known that the value of their lands must altogether depend upon the right to navigate the Mississippi. This is the great outlet with which, and with the rivers running into it, nature washes their shores, points to them the mode of exporting their productions, and of establishing a commercial intercourse with the rest of the world. Inform them you have consented to relinquish it even for a time, you check, perhaps destroy, the spirit of emigration, and prevent the accomplishment of the object proposed by the sale. But, it is said, the Spaniards already oppose us in the navigation, and that this will as effectually prevent emigration, as our consenting to suspend it. To this it may be shortly replied, that while the purchasers know that the United States claim and insist upon the right, and are negotiating for it, that if the Spaniards refuse to admit us to a participation, the occlusion will be founded in injury, must be supported by force, and will be resisted whenever circumstances shall authorise; a reliance on the support and protection of their parent state, will operate as a spur to emigration.

To me it appears most extraordinary that a doctrine should be attempted to prove, that because we have not at present a government sufficiently energetic to assert a national right, it would be more honorable to relinquish it.

The British government, in violation of the late treaty, hold by force and garrison posts within the territory of the United States.

These posts give them the entire command of the valuable fur trade. If they were in our possession, as they ought to be, this important commerce would pursue its usual route, and become an article of considerable export to these states; but we are unable to recover them by force at present, war being inexpedient, and are obliged to submit to the injury and disgrace of their being forcibly withheld. We are now attempting to negotiate with Britain: suppose she was to offer certain commercial privileges, advantageous to the whole, but operating more particularly in favor of those exports which suit her market, and to which she more anxiously applies her attention than to any other part of your commerce; for to Britain, tobacco and rice are at least as important, as fish and timber to Spain. Suppose I say she was to offer to form a treaty, granting these privileges in lieu of your stipulating that she should hold these posts, and enjoy the fur trade for a given number of years, I ask, whether Congress would conceive themselves warranted in assenting to it, or think the honor of the nation was not wounded by the attempt? Would gentlemen representing the states, particularly interested, suppose themselves at liberty to consent to it without consulting their constituents? I should apprehend not, and yet the posts are held in defiance of the authority and remonstrances of this country. The claim to the Mississippi has been as strongly insisted upon as the claim to the posts, and the cases appear to me so similar, that I should think the same policy that would dictate the yielding the one, might with great propriety consent to the surrender of the other.

Another object more important than the sale and disposal of the Western territory, presents itself in objection to the suspension of the right.

Nature has so placed this country, that they must either be the future friends or enemies of the Atlantic states, and this will altogether depend upon the policy they shall observe towards them.

If they assist them in rearing their infant governments to maturity, and by extending the gentle influence of their laws gradually, cement their union with us upon equal principles, it is fair to suppose they may be an acquisition, rather than a disadvantage.

In their first settlement, exports cannot be much attended to, but if these states increase in the same proportion the United States did, and we are to presume they will exceed them, in the course of a few years, they will turn their views to the best mode of exporting and



disposing of their productions. The large navigable rivers which all terminate in the Mississippi, point to them, as has been mentioned, this mode of export; should the right remain unceded by Congress, the consideration of the future force of the inhabitants, and a number of eventual circumstances in our favor, which it is impossible at present to foresee, but which are probable, may induce, perhaps compel, Spain to yield us a share in the navigation.

But should it be surrendered, you at once deprive the citizens of the Atlantic states from navigating it, or from having any intercourse with the settlements on its banks, and within your territory. You immediately destroy all connection between them and the inhabitants of the western country: for, after you have rendered them thus dependant on Spain, by using the first opportunity in your power to sacrifice their interests to those of the Atlantic States, can they be blamed for immediately throwing themselves into her arms for that protection and support which you have denied them—for the enjoyment of that right which you have placed it out of your power to grant. Is it not to be clearly seen by those who will see, that the policy of Spain, in thus inducing us to consent to a surrender of the navigation for a time, is, that by having a clear and unincumbered right, she may use it for the purpose of separating the interests of the inhabitants of the western country entirely from us, and making it subservient to her own purposes? Will it not produce this? It will. Will it not give her influence the entire command of the numerous and extensive Indian tribes within this country? It will certainly have this effect. When once this right is ceded, no longer can the United States be viewed as the friend or parent of the new States, nor ought they to be considered in any other light, than in that of their oppressors.

There is one consideration, and of some consequence, which ought to be recollected; that is, the impropriety of the United States ever acting under the influence of that kind of policy which is calculated to acquire benefits for one part of the confederacy at the expence of the other.

It is confessed our government is so feeble and unoperative, that unless a new portion of strength is infused, it must in all probability soon dissolve. Congress have it in contemplation to apply to the States on this subject. The concurrence of the whole will be necessary to effect it. Is it to be supposed, that if it is discovered a treaty is formed upon principles calculated to promote the interests of one



part of the union at the expence of the other, that the part conceiving itself injured will ever consent to invest additional powers? Will they not urge, and with great reason, the impropriety of vesting that body with farther powers, which has so recently abused those they already possess? I have no doubt they will.

If therefore the entering into this treaty, which really does not in my opinion, hold out any important benefits, and if any, only to a part of the union, should interfere and prevent the States from assenting to invest Congress with proper powers, throwing justice and an equal attention to all the members of the confederacy out of view, ought not policy to induce us to make the lesser yield to the more important consideration? If we are prudent it ought.

It may be said it is extremely oppressive, that the Northern and Eastern States should be deprived of a treaty which they conceive an advantageous one, merely to gratify the Southern in adhering to a claim to navigation, unimportant if in our possession, which we have not power to assert, and must therefore submit to be deprived of—but it should be remembered that the cession is the price of the treaty; if you had not this right to grant, why should Spain treat with you? Will she derive any other benefits from the treaty? No. All she can expect, except the exclusive navigation, she now enjoys, unfettered by stipulations, it would therefore be extremely unwise and impolitic in her unnecessarily to restrict herself. I have stated the reasons which render her particularly anxious to treat with you, and those who are to pay the price, have at least a right to an opinion upon the subject. Besides, the delegates of the different States stand here upon different grounds. The delegates of some of the States, whose territories, or whose claims to territory extend to the Mississippi, or to the waters leading into it, and who consider these states as deriving a claim under the general title of the United States, to navigate the river, view this as an important national right, secured by treaty, upon which they doubt their power to decide without a reference to their constituents; for if, in time of war, under the exclusive rights of Congress, and justifiable only by the law of necessity, their right to divest their constituents of a national claim would be doubtful; how much more so is it in time of profound peace, and when this necessity cannot justify it?

Unless Spain would consent to treat with us upon terms which did not respect the Mississippi, and which afforded us many more advan-

tages than those proposed, I should very much doubt the policy of treating with her at all at this time.

It does not appear to me honorable or politic, that the United States should at present form any treaties of commerce, except upon such principles as would insure to us very considerable benefits, and such as would execute themselves.

It is not honorable, because, though Congress have nominally a right to enter into treaties, they do not possess the power of taking such measures as will ensure an attention to them. The right retained to the States under the confederation; will create a dependence of Congress upon their conduct; this will be as different in the several States as their views and policy, they will each interfere with the other in their regulations, and be incapable of carrying the stipulations into effect. Sensible of this defect, Congress have already applied to the States for additional powers. I would rather wait the issue of this application, which may place us more upon an equality with Spain, than treat under our present disadvantages. I have always been of opinion, that the true policy of the United States consisted in the endeavouring to obtain from their constituents powers sufficient to enable them to establish such regulations as were suited to our situation, and would render our commerce more lucrative to our own citizens than to any others. All our policy should consist in the establishment of these regulations—in the determination never to derogate from them in favour of foreigners; and, except in every particular cases, in not attempting to form commercial treaties, until we were in a situation to demand and expect privileges without purchasing them even with equivalents. This is the situation of Spain, as it respects you; and, therefore, it is wise in her to push her negotiations, as she expects an important cession, without purchasing it with an equivalent; but I trust we shall have sufficient prudence not to precipitate ourselves into a measure which we may hereafter repent, without first very maturely considering it.

Upon the whole, as the present treaty proposes no real advantage that we do not at present enjoy, and it will always be the interest and policy of Spain to allow; as our situation by no means presses us to the formation of new connections; and as the suspension demanded, may involve us in uneasinesses with each other at a time when harmony is so essential to our true interests—as it may be the means of

souring the states, and indispose them to grant us those additional powers of government, without which we cannot exist as a nation, and without which all the treaties you may form must be ineffectual; let me hope that upon this occasion the general welfare of the United States will be suffered to prevail, and that the house will on no account consent to alter Mr. Jay's instructions, or permit him to treat upon any other terms than those he has already proposed.

NOTES OF DEBATES IN THE CONTINENTAL CONGRESS

BY WILLIAM SAMUEL JOHNSON

949





## NOTES OF DEBATES

[AUGUST, 1786]

### TREATY WITH SPAIN

Affir<sup>s</sup>

Guardoqui. 29<sup>th</sup> May 86. Spain will on no acc<sup>t</sup> permit the Navig<sup>n</sup>  
Good Dispos<sup>n</sup> of Spain—Act of Friendship.

Spain wants & Consum<sup>s</sup> our Products—Pays in Cash. Will  
Garantg our Domin<sup>s</sup> Secure our Trade & Marine.

Jay Comm<sup>l</sup> Treaty w<sup>h</sup> Sp<sup>n</sup> most benef<sup>l</sup>—France will give prof<sup>s</sup> to  
Sp.—Moving with Portug<sup>l</sup> &c. Britain will inj<sup>r</sup> us with Sp. wh her  
Rivals &c. &c.

Sp. has inf<sup>l</sup> in Moroc: & Barb<sup>r</sup>: will exercise.

D<sup>o</sup> in Italy—In Am<sup>s</sup> very Good or Ill—Trad. very ben<sup>l</sup> but to be  
secur'd only by Treat<sup>r</sup>

Treat<sup>r</sup> prop<sup>d</sup> Benef<sup>l</sup>—as Natives—all Manuf<sup>s</sup> & Prod<sup>s</sup> Tobac.  
except<sup>d</sup>—Will take Nav. Stores Masts & Timb<sup>r</sup> for Navy at eq<sup>l</sup>  
Price—In Cash.

Prohibit<sup>n</sup> of Tobac. none exists—Philip<sup>s</sup>—Missisip<sup>l</sup> & Territ<sup>r</sup>—  
Will never yield Miss<sup>l</sup> Am<sup>s</sup> will have it. Ans<sup>r</sup> Period distant &c.

Foxb<sup>n</sup> 20 or 25 y<sup>r</sup>s Now shut. Will be so—Not imp<sup>t</sup> for that  
Per<sup>d</sup> Nat<sup>s</sup> of W. Land. Will be so—Sep<sup>n</sup> adm<sup>n</sup> Rig<sup>t</sup> of Sess<sup>r</sup>—Try—  
no Inj<sup>r</sup> much Good—Terr<sup>r</sup> few acres—Sp. has a New Com<sup>l</sup> Treat.  
with Sp.—May hereaft<sup>r</sup> be indispos<sup>d</sup> towards—or unabl<sup>e</sup>—Picture of  
our Circum<sup>s</sup>

Ill—Cont<sup>s</sup> so till Vig<sup>s</sup> Nat<sup>l</sup> Govern<sup>t</sup>

Inst<sup>n</sup> of Feb<sup>r</sup> 15<sup>th</sup> 1781. to desist from claim of Nav<sup>n</sup> of Missip<sup>l</sup> below  
31<sup>st</sup> Deg<sup>s</sup>—30<sup>th</sup> Ap. 1782. Approb<sup>n</sup> of D<sup>o</sup>—Repeal Aug<sup>t</sup> 6<sup>th</sup> 1782—  
Aug<sup>t</sup> 13<sup>th</sup> 1779. Resolut<sup>ns</sup> of Instr<sup>s</sup> for Treaty of Peace w<sup>h</sup> G. B.—8<sup>th</sup>  
June 1781.

Proposition of Virg<sup>s</sup> as to North<sup>n</sup> Bound<sup>r</sup>—14<sup>th</sup>, 17<sup>th</sup>, Oct<sup>r</sup> 1780.

Letter contain<sup>s</sup> Reason<sup>s</sup> on the Right of U. S. to Missip<sup>l</sup> & Bound<sup>s</sup>  
claim'd. Long & able.

King. Minds settled. Reciprocity, implies all—Commiss<sup>s</sup> to regulate. Most fav<sup>d</sup> Nation. Do's not extend to specifick Rights purchas'd—Kind<sup>s</sup> Navig<sup>n</sup> of Missip<sup>l</sup>

Dutch Bottoms—Sunm<sup>y</sup> of the Benf<sup>s</sup> from Secret of F. A. Rep<sup>t</sup> S. F. Affairs on Sp. claims & Fran. Views in resp<sup>t</sup> to Missisip<sup>l</sup> S<sup>t</sup> Joseph taken by Sp.—Marq. Fayette: to C. Flor. Blan. Renvalls Paper.

King. The Fact is you cannot use the River for 20 Y<sup>e</sup> all folls. from this.

Negat<sup>s</sup>

Gray<sup>n</sup> Pend<sup>n</sup> Ben. [sic]

Lee—Not attainable. Eng<sup>d</sup> Unnecess<sup>y</sup> & Misipi.

Pink<sup>y</sup> must pros<sup>e</sup> Jay has found<sup>n</sup>—Little Diff<sup>s</sup> betw<sup>n</sup> Temp<sup>y</sup> & perpet<sup>l</sup> Cession—Submit<sup>s</sup> Pap<sup>s</sup> in Ans<sup>t</sup>

1<sup>st</sup> Examine his Premis<sup>s</sup>

2. The off<sup>s</sup> of Spain

3. The Price of the Treaty.

4. The Polic<sup>y</sup> of ag<sup>y</sup> to a Treaty at this Time

France fav<sup>e</sup> to Sp<sup>n</sup> but will not risq<sup>e</sup> a Cont<sup>t</sup> with Eng<sup>d</sup> & U. S. for her. Eng<sup>d</sup> Turns her att<sup>n</sup> to S. A. & w<sup>d</sup> interf<sup>e</sup> for us. Treat. w<sup>h</sup> Portg<sup>l</sup>

Sp. no use to us in Barb<sup>y</sup>—Nor in Italy tho the K of Nap<sup>s</sup> a Son of Sp.—Sp. fears us & our Interf<sup>e</sup> in S. Am<sup>s</sup>—It is the Int<sup>t</sup> of Sp to Treat

2<sup>ly</sup> The offers. are recip. Masts—lan<sup>s</sup>—Philip<sup>s</sup> Cannot so recip<sup>e</sup> our Trade Free—theirs enslav<sup>d</sup>—

Dut<sup>s</sup> high 10 25 p<sup>t</sup> C<sup>t</sup>—Wants our Prod<sup>s</sup> & will not shut her Ports—Masts no Conseq<sup>e</sup> She will want them. & you will want no sale—Their Int<sup>s</sup> will open their Ports—Manilla Minist<sup>l</sup> Finess But if real no advant<sup>e</sup>—N E. States benef<sup>d</sup>

Trade w<sup>h</sup> Sp. Treat<sup>s</sup> w<sup>h</sup> Spain—Fam<sup>y</sup> Corres<sup>e</sup>

N York & Pen<sup>s</sup> may exp<sup>t</sup> wheat. Jer. out.

Virg<sup>s</sup> not Tobac. & most Inj<sup>d</sup> Caro<sup>s</sup> & Geor. Rice wants no Treaty or if did not at such exp<sup>e</sup>—No equiv<sup>t</sup>—The Righ<sup>t</sup> admitted

4. Ill Policy—Price of W. Lands Depends up<sup>n</sup> Miss<sup>l</sup> if stop. check emig<sup>n</sup> & ruin Sale. While uncert<sup>n</sup> not relinq<sup>h</sup> beau<sup>e</sup> cant maint<sup>n</sup> right. Case of the Posts compared—Similar—W. Territ<sup>y</sup> to be secured to us & comm<sup>d</sup> with only by that Navig<sup>n</sup>—No benef<sup>ts</sup> to be acq<sup>d</sup> to one part of the Union at Exp<sup>e</sup> of the other—and this Meas<sup>s</sup>

will prev<sup>t</sup> the acq<sup>n</sup> of Powers to Cong<sup>s</sup> S. States Inj<sup>d</sup>—Peace no right to Cede—

No Treat<sup>s</sup> sho'd be made at this time for want of Power—Wait till that Power obt<sup>d</sup>—No presup<sup>n</sup>—Not press'd—Involv<sup>o</sup> us in contest. prevent acq<sup>n</sup> of Power &c &c &c.

Monroe. The affors<sup>d</sup> Treat<sup>y</sup> affect<sup>s</sup> 1. Mast<sup>s</sup> 2. Tonnage or Shiping. 3. Product<sup>s</sup>—Not benef<sup>l</sup>—Tariff to be mutually agreed. Interfers w<sup>b</sup> the Rights of Ind<sup>s</sup> States to Prohibit. & with form<sup>t</sup> Treat<sup>s</sup> They may also come in und<sup>t</sup> the clause of Most fav. Nation giving same equivalents. Will prevent obtain<sup>s</sup> necess<sup>y</sup> Powers of Congress.

Aug<sup>t</sup> 17<sup>th</sup> Grayson. Decid<sup>s</sup> the Exist<sup>o</sup> of the Confed<sup>n</sup> Rep<sup>t</sup> of S. F. A. prep<sup>s</sup> for new Wars. [*sic*] Mon<sup>y</sup> of Sp. Fam<sup>y</sup> Comp<sup>t</sup> not extend to this case. Fr<sup>o</sup> will<sup>s</sup> to gain by seclus<sup>o</sup> of Missip<sup>l</sup> Her Int<sup>t</sup> to have it open. of arm<sup>d</sup> Neut<sup>y</sup>—B. & it, will join us ag<sup>t</sup> Sp.—But last can by Prom<sup>s</sup> upon their Fish.

Def<sup>t</sup> the obt<sup>y</sup> of Comm<sup>l</sup> Powers for Cong<sup>s</sup> Rep<sup>n</sup> Imp<sup>t</sup> [*sic*]  
The Treaty not benef<sup>l</sup>



BIBLIOGRAPHICAL NOTES

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## BIBLIOGRAPHICAL NOTES

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January 4.

Report of Secretary on Revenue and Commerce.

511. By the United States in/Congress assembled./January 2, 1786./  
Ordered,/ F<sup>o</sup> [3 pp.]

A copy is in the Library of Congress, signed by Charles Thomson. It measures 32.5 x 20.8 cms. An edition of 100 copies from the press of John Dunlap, printed January 7. *Register of Accounts*, No. 146.

The report covered the number of States that had complied with the revenue system of April 18, 1783; the recommendation of Congress for alteration of the 8th Article of Confederation and the act of April 30, 1784, vesting certain commercial powers in Congress.

January 12.

Report on Accounts of the Five Great Departments.

512. The board of treasury, to whom it was referred to revise the system adopt-/ed for the settlement of the accounts of the five great departments, . . . ./ F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 33.6 x 20.2 cms. An edition of 60 copies from the press of John Dunlap, printed January 19. There is also entered in the *Register of Accounts*, No. 146, an edition of another 60 copies printed on January 19 of a report of the Board of Treasury. This may be an additional order of the same.

January 31.

Report on Accounts of the Five Great Departments.

513. The Committee, consisting of/Mr. Pinckney, Mr. Dane, Mr. Monroe, Mr. Johnson/and Mr. King, to whom were referred a Report from/the Board of Treasury on revising the system adopted/for the Settlement of the Accounts of the Five/Great Departments, . . . ./ F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 34 x 25 cms. Another copy bearing ms. changes by Charles Thomson bringing it in conformity to the resolutions as passed March 24 is in the *Papers of the Continental Congress*, No. 26, folio 475. From the press of John Dunlap, an edition of 60 copies printed February 1.

## February 2.

## Report on Finances.

514. The report of a committee, appointed to consider whether any and what Measures may be necessary for Congress to adopt, in pursuance of their Recommendations to the several States on the 18th of April, 1783. F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It is in double column and measures 40.4 x 34 x 4 cms. From the press of John Dunlap, an edition of 100 copies, printed February 2. See *Journals* February 3.

## February 8.

## Foreign Loans.

515. Schedule of the French and Dutch Loans, Shewing the Periods of their Redemption, with the annual Interest payable thereon until their final Ex-tinction, for which Provision is yet to be made. F<sup>o</sup> [2pp.]

A copy is in the Library of Congress. It measures 42 x 34 cms. The schedule was furnished as an accompanying document to the report of the Board of Treasury, dated February 7 and read in Congress February 8. It was from the press of John Dunlap, an edition of 150 copies, printed February 10.

## February 13.

## Report on General Revenue.

516. The Committee, consisting of Mr. King, Mr. Pinckney, Mr. Kean, Mr. Monroe, and Mr. Pettit, to whom were referred several Reports and Documents concerning the System of General Revenue, recommended by Congress on the 18th of April, 1783, . . . /Report, F<sup>o</sup> [2 pp.]

A copy is in the Library of Congress. It measures 44 x 27 cms. From the press of John Dunlap, an edition of        copies was printed February 14. Another copy, with ms. changes by Charles Thomson, which brings it into conformity with the action taken February 15, is in the *Papers of the Continental Congress*, No. 26, folio 577.

## February 15.

## Report on General Revenue.

518. United States in Congress assembled. /February 15, 1786. /The Committee, consisting of Mr. King, Mr. Pinckney, Mr. Kean, Mr. Monroe, and Mr. Pettit, to whom were referred several Reports and Documents concerning the System of General Revenue, recommended by Congress on the 18th of April 1783, . . . /Report, F<sup>o</sup> [2 pp.]

A copy is in the Library of Congress. It measures 44 x 28 cms. From the press of John Dunlap, an edition of 100 copies, printed February 15.

February 20.

Estimate of Expense of Civil Departments.

517. Estimate of the Annual Expenditure of the Civil Departments of the United States, on the present Establishment./

F<sup>o</sup> [1] 2-13 pp.

A copy is in the Library of Congress. It measures 30.9 x 18.7 cms. From the press of John Dunlap, an edition of 150 copies was printed July 3. This estimate was submitted by the Board of Treasury and read June 27.

March 3.

Report on Commerce.

519. United States in Congress assembled, / March 3, 1786. / The committee consisting of

F<sup>o</sup> Broadside.

A copy, signed by Charles Thomson, is in the Library of Congress. It measures 31.2 x 19.8 cms. From the press of John Dunlap, an edition of 60 copies printed March 3.

March 8.

Motion of Nathan Dane on Taxation.

520. A Motion of Mr. Dane, / That a Committee of Five be appointed to examine how far the several States / have complied with, and adopted the Alteration of the Eighth Article of the / Confederation. . . .

F<sup>o</sup> [2 pp.]

A copy is in the Library of Congress. It measures 42.5 x 26 cms. From the press of John Dunlap, an edition of 60 copies was printed March 10. Dane's motion was offered February 27.

March 15.

Report on Secretary at War's letter.

521. War-Office, April, 25, 1785. / Sir, / On the memorial of captain Jesse Grant and captain Jesse Cook, . . . . /

The Committee consisting of Mr. Dane, Mr. Lee and Mr. St. Clair, to / whom was referred the representation of J. Pierce Esq commissioner of ar-/my accounts . . .

F<sup>o</sup> Broadside.

A copy is in the Library of Congress. (No. 19, II, folio 429) It measures 32 x 20.7 cms. From the press of John Dunlap, an edition of 60 copies printed March 15. The committee reported March 10.

March 18.

Militia Arrangement.

522. A / Plan / for the / General Arrangement / of the / Militia / of the / United States./ 12<sup>o</sup> pp. [1-2, tp. 4] 5-34.

A copy is in the Library of Congress. Knox's report submitting the Plan precedes the title page, at the bottom of which is printed the note: "The regulations for the discipline and government / of the Militia, will be submitted hereafter." From the press of John Dunlap, an edition of 100 copies was issued March 27. See *Journals*, April 4.

March 24.

Report on Cessions of Western Lands.

523. The grand Committee, to whom were / referred a Motion of Mr. Monroe, upon the Subject of the Western / Territory, ceded by individual States, beg Leave to report in Part, — /

F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 32.6 x 20 cms.

March 24.

Report on Cessions of Western Lands.

524. The grand Committee, consisting of / to whom were, / among other Things, referred a motion of Mr. Monroe respecting the Ces-/sions and Division of Western Lands and Territory, . . ./ Report,-/

F<sup>o</sup> Broadside.

A copy is in the Library of Congress (No. 30, folio 569). It measures 32.2 x 20 cms. and bears ms. changes by Roger Alden bringing it into conformity with the resolve Passed July 7. From the press of John Dunlap, an edition of 60 copies was issued March 20.

March 30.

Committee report on Articles of War and Courts Martial.

525. The Committee consisting of Mr. St. Clair, / Mr. Lee and Mr. Lawrance, to whom was referred a Report of / the Secretary at War, on the Articles of War and Courts-Mar-/tial, report as follows:— /

F<sup>o</sup> [4 pp.]

A copy is in the Library of Congress. It measures 43 x 26 cms. From the press of John Dunlap, and edition of 70 copies, issued April 4.

April 4.

Indian Treaties.

526. Articles of a Treaty, / Concluded at Hopewell, on the Keowee, . . .

Articles of a Treaty, / Concluded at Hopewell, on the Keowee. . . .

F<sup>o</sup> [4 pp.]



A copy is in the Library of Congress. It measures 31.4 x 19.6 cms. The first treaty, dated January 10, 1786, was with the Chickasaws; the second, January 3, was with the Choctaws. From the press of John Dunlap, an edition of 100 copies. The account in *Register of Accounts* No. 146, for printing in the months of April, May, and June, does not note, except on April 4, the particular days on which pieces were printed.

**April 8.**

**Report on a Mint and Coinage.**

527. Board of Treasury, April 8, 1786. / Sir, / We do ourselves the honor. . . . . 8<sup>o</sup> 28 pp.

A copy is in the Library of Congress. It measures 22.4 x 18.4 cms. From the press of John Dunlap, an edition of 100 copies.

**April 10.**

**Connecticut's cession of Western Land.**

528. The Committee to whom was referred / a Motion of the Delegates of the State of Connecticut, relative to a Cession. . . . . F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 36 x 21.5 cms. From the press of John Dunlap, an edition of 100 copies.

**April 17.**

**Indian Treaties.**

529. Articles of a Treaty, / Concluded at the Mouth of the Great Miami, . . . .

Articles of a Treaty, / Concluded at Hopewell, on the Keowee, . . . . F<sup>o</sup> [4 pp.]

A copy is in the Library of Congress. It measures 31.8 x 19.20 cms. From the press of John Dunlap, an edition of 100 copies. The first treaty was with the Shawanoes, dated 1785, January 31. The second, dated November 28, 1785, was with the Cherokees.

**April.**

**French Bounty on Codfish.**

530. Decree / Of the King's Council of State, granting Premiums for the Encouragement / of French Merchants, who shall carry Dried Cod-Fish of the Nation- / al Fishery, to the Windward and Leeward Islands; also to the European Ports, / as Italy, Spain and Portugal. / September 18, 1785. /

Decree of the King's Council of State, raising the / Tax imposed on the Cod-Fish of the Foreign Fishery, which shall be Imported into the Windward and / Leeward Islands of America, to Five Livres per quintal. / Of the 25th September, 1785. / F<sup>o</sup> [4 pp.]

A copy is in the Library of Congress. It measures 41.2 x 25.8 cms. From the press of John Dunlap, an edition of 100 copies. See *Journals*, April 27, 1786.

May 3.

**Survey of Western Territory.**

531. Motion / of / Mr. Dane, / Resolved, / F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 31.5 x 19 cms. From the press of John Dunlap, an edition of 60 copies.

May 10.

**Temporary Government of Western Territory.**

532. The Committee, to whom a Motion of Mr. / Dane was referred for considering and reporting the Form of a Temporary Government for the Western States,— / Beg leave to Report,— / F<sup>o</sup> [2pp.]

A copy is in the Library of Congress. It measures 42.7 x 27.3 cms. From the press of John Dunlap, an edition of 100 copies. A copy in No. 30, folio 93 bears ms. alterations by Thomson.

May 17.

**Treaty with Prussia.**

533. The United States in Congress assembled: / To all whom these Presents shall come Greeting. F<sup>o</sup> Broadside.

A copy, according to P. L. Ford, is in the New York State Library. From the press of John Dunlap, an edition of 100 copies *Register of Accounts* No. 146. The Supplement to the Daily Advertiser, June 6, 1786, in L. C. prints the treaty with a variant heading from that given by Ford above, *towit* The United States of America in Congress assembled: / To all to whom these Presents shall come Greeting. /

May 19.

**Admiralty Claims in Court of Appeals.**

534. The Committee consisting of Mr. / Pinekney, Mr. King, Mr. Johnson, Mr. Grayson and Mr. Hindman, / to whom were referred several Memorials and Petitions from / Persons claiming Vessels in the Courts of Admiralty. . . . F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 32.1 x 18.3 cms. From the press of John Dunlap, an edition of 60 copies. The L. C. issue (No. 28, folio 201) bears ms. alterations by Rufus King.

May.

Indian Affairs.

535. Reports having been circulated among the Indians. . . .

"The publication made by the Chairman of Congress respecting the speech and audiences of Cap<sup>t</sup> O'Beel—the Cornplanter—May 1786." No printed copy has as yet been located. See *Journals* May 5, 1786.

June 6.

Report on letter from Governor Henry.

536. The Committee to whom was re- / ferred the Letter of Gov-  
ernor Henry, / Report.— / F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 32.7 x 20.5 cms. From the press of John Dunlap, an edition of 60 copies.

June 15.

Ordinance for regulating Post Office.

537. An Ordinance / For regulating the Post-Office of the United  
States of America. / F<sup>o</sup> [2 pp.]

A copy is in the Library of Congress (*Papers of the Continental Congress* No. 61, folio 607). It measures 42 x 26.5 cms., and bears a clerk's indorsement: "N. B. The original Report was committed March 27<sup>th</sup> 1788 and not returned—this is the only copy in the Office." From the press of John Dunlap, an edition of 100 copies.

June 16.

Report on power of Congress over Delegates.

538. Your committee beg leave to report,— / That they consider  
the confederation as a compact . . . . F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 33.3 x 20 cms. The copy in No. 23, folio 297 bears alterations by Thomson and has noted thereon by Benjamin Bankson: "Sixty Copies receiv'd June 16, 1786. Printed by Mr. Swain." See *Journals* June 12.

In the *Register of Accounts*, No. 146, is a charge of John Dunlap for printing "60 copies respecting Confederation." The date, unfortunately is indeterminate and may be in April, May or June.

June 16.

Report on New York Impost Act.

539. The committee consisting of Mr. King, Mr. Johnson, Mr.  
Monroe, Mr. Law- / rance, and Mr. Pettit, to whom was referred an  
Act of the State of New-York, / F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 42.6 x 26.5 cms. From the press of John Dunlap, an edition of 60 copies.

June 22.

Board of Treasury on Requisition for 1786.

540. Board of Treasury, June 22, 1786. / Sir, / The Board of Treasury, to whom was referred their Letter of the 19th of February last, . . . F<sup>o</sup> [4 pp.]

A copy is in the Library of Congress. It measures 36 x 21.2 cms. From the press of John Dunlap, an edition of 150 copies was printed July 3.

June 28.

Report on regulation of Indian Department.

541. The Committee consisting of Mr. Pinckney, Mr. Monroe, and Mr. King, appointed to form / an Ordinance . . . F<sup>o</sup> 2 pp.]

A copy is in the Library of Congress. It measures 36.5 x 23 cms. From the press of John Dunlap, an edition of 60 copies was printed July 1.

July 1.

Requisitions, 1782-1786.

542. Schedule of Requisitions on the several States by the United States in Congress assembled; / F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 22 x 56 cms. It is dated, Register's Office, July 1, 1786 Joseph Nourse, Register.

July 14.

Resolves on Delegates.

543. By the United States in / Congress assembled. / July 14th, 1786. / On the report of a committee . . . F<sup>o</sup> Broadside.

A copy, signed by Charles Thomson, is in the Library of Congress. It measures 31.8 x 20.3 cms. From the press of John Dunlap, an edition of 50 copies, issued July 25.

July 19.

Accounts of Pennsylvania.

544. The Board of Treasury to whom was referred their Letter of/ the 29th of June last, together with sundry Letters from the Comptrol- / ler of the State of Pennsylvania . . . F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 31.5 x 20.8 cms. From the press of John Dunlap, an edition of 60 copies, issued July 24.

July 24.

Case of the sloop Chester.

545. [Resolved, That the court of appeals . . . ]

This resolve was ordered published July 24. From the press of John Dunlap, an edition of 50 copies, of which no copy has been located.

July 26.

Ordinance establishing Indian Departments.

546. An Ordinance, &c. / Whereas the safety and tranquility of the frontiers of the United States, do in some / measure depend . . . . .

F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 31.7 x 20.1 cms. and is indorsed by William Samuel Johnson: "2<sup>d</sup> Edit<sup>o</sup>"

August 2.

Requisition for 1786.

547. By the United States in / Congress assembled. / August, 2, 1786. / Resolved, . . . . . F<sup>o</sup> [2 pp.]

A copy, signed by Charles Thomson, is in the Library of Congress. It measures 32 x 20.4 cms. From the press of John Dunlap, an edition of 200 copies printed August 4.

August 7.

Ordinance for regulating Indian Affairs.

548. By the United States in / Congress assembled. / August 7, 1786. / An Ordinance for the Regulation of Indian Affairs. /

F<sup>o</sup> [2 pp.]

A copy, signed by Charles Thomson, is in the Library of Congress. It measures x cms. From the press of John Dunlap, an edition of 200 copies, printed after August 11.

August 7.

Report on powers of Congress.

549. The Grand Committee, consisting of Mr. Livermore, Mr. Dane, Mr. Manning, Mr. Johnson, Mr. Smith, Mr. / Symmes, Mr. Pettit, Mr. Henry, Mr. Lee, Mr. Bloodworth, Mr. Pinckney and Mr. Houstoun, appointed / to report such Amendments to the Confederation, and such Resolutions as may be necessary . . . . . F<sup>o</sup> [2 pp.]

A copy is in the Library of Congress. It measures 42.4 x 26.5 cms. From the press of John Dunlap, an edition of 60 copies, issued after August 11.

August 8.

Standard of coins.

550. By the United States in / Congress assembled. / August 8, 1786. / On a Report of the Board of Treasury: / F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 32.7 x 20.4 cms. From the press of John Dunlap, an edition of 100 copies issued after August 11.



August 16.

Report on Domestic Debt.

551. The Committee consisting of Mr. Johnson, Mr. Pinckney, and Mr. / Pettit, to whom was referred a Motion of Mr. Pinckney: / Report,— / F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 32.6 x 20.2 cms. From the press of John Dunlap, an edition of 60 copies is noted, as printed August 11. *Register of Accounts*, No. 146.

August 22.

Report on letter from Governor of New York.

552. The Committee, consisting of Mr. Johnson, Mr. King, Mr. Pinckney, Mr. Monroe, and Mr. Grayson, to / whom was referred a Letter from his Excellency the Governor of New-York, of the 16th instant,— / Report,— / F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 43 x 26.2 cms. From the press of John Dunlap, an edition of 60 copies.

August 31.

Address to the Legislatures.

553. [An Address from the United States . . . .]

An edition of 60 copies from the press of John Dunlap. Seems to have been printed between August 31 and September 4. No copy, as yet, located. See October 6 Address.

September 18.

Settlement of Accounts of States.

554. The Committee, consisting of Mr. Smith, Mr. Long, Mr. Johnson, / Mr. Bull, Mr. Carrington, Mr. Henry and Mr. Kean, to whom was commit- / ted a Motion of Mr. King . . . . F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 34.7 x 21 cms. From the press of John Dunlap, an edition of 60 copies, issued September 6.

September 18.

Rhode Island Paper Currency.

555. By the United States in / Congress assembled. / September 18, 1786. / The committee, consisting of . . . . . F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 31.8 x 19.8 cms. From the press of John Dunlap, an edition of 60 copies issued September 23.

September 19.

Temporary Government of Western Territory.

556. The Committee, consisting of Mr. Johnson, Mr. Pinekney, Mr. Smith, Mr. Dane, and Mr. / Henry, appointed to prepare a Plan of a Temporary Government for / such Distriets, or new States, as shall be laid out . . . . F<sup>o</sup> [2 pp.]

A copy is in the Library of Congress. It measures 42.2 x 25.3 cms. From the press of John Dunlap, an edition of 70 copies.

September 20.

Ordinance establishing a Mint and regulating the value of Coin.

557. An Ordinance for the Establishment of the Mint of the United / States of America; and for Regulating the Value and Al- / loy of Coin. /

F<sup>o</sup> [2 pp.]

A copy is in the Library of Congress. It measured 41.3 x 24.5 cms. From the press of John Dunlap, an edition of 60 copies issued September 25.

September 26.

Money advanced to Delegates.

558. Accounts of the U. S. with the States. / 1786 / Dr. and Cr.

F<sup>o</sup> 82 pp.

A copy is in the Boston Atheneum. The letter of September 26 from the Board of Treasury, in response to the order of Congress of September 19 has the following indorsement by Roger Alden: "See printed Statement containing 82 pages from Registers Office."

October 6.

Address to the Legislatures to accompany Requisition for 1786.

559. An Address from the United States in Congress Assem- / bled to the Legislatures of the several States. / F<sup>o</sup> [3 pp.]

A copy is in the Library of Congress. It measures 41.8 x 26.3 cms. From the press of John Dunlap, an edition of 60 copies issued October 9.

October 6.

Ordinance establishing Board to settle accounts of States.

560. An Ordinance for Establishing a Board to Li- / quidate and Settle all Accounts between the Uni- / ted States and Individual States. / F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 32.5 x 20.3 cms. From the press of John Dunlap, an edition of 60 copies issued October 9.

October 13.

Ordinance establishing Board to settle Accounts of States.

561. An Ordinance for Establishing a Board, to Li- / quidate and Settle all Accounts between the Uni- / ted States, and Individual States. / F<sup>o</sup> Broadside.

A copy, signed by Charles Thomson, is in the Library of Congress. It measures 32.5 x 20 cms. From the press of John Dunlap, an edition of 100 copies issued October 15.

October 16.

Ordinance establishing a Mint and regulating the value of Coin.

562. An Ordinance for the Establishment of the Mint / of the United States of America; and for Regula- / ting the Value and Alloy of Coin. / F<sup>o</sup> Broadside.

A copy, signed by Charles Thomson, is in the Library of Congress. It measures 32 x 19 cms. From the press of John Dunlap, an edition of 100 copies issued October 19.

October 17.

Address to Legislatures to accompany Requisition of 1786.

563. Impressed with a sense of the sacred trust committed to them, and with an anxious and / affectionate concern . . . .

F<sup>o</sup> Broadside.

A copy is in the Library of Congress. It measures 41.6 x 26.3 cms. The ms. report from which this was printed is in No. 24, folio 371. It is indorsed by Thomson: "Oct 17, 1786 Question taken and lost." It is obvious therefore that this broadside was printed before October 17 Cf. August 31 and October 6. In *Register of Accounts* No. 146, is an entry under October 12 of an issue of 60 copies of "Reports resp<sup>s</sup> Requisitions" which, it is assumed, is for this broadside.

October 20.

Troops for Indian Country.

564. By the United States in / Congress assembled. / October 20, 1786. / The Committee consisting of Mr. Pettit, Mr. Lee, Mr. Pinckney, / Mr. Henry and Mr. Smith, to whom was referred the Letter from / the War Office with the Papers enclosed containing Intelligence / of the hostile Intentions of the Indians in the Western Coun- / having Reported: / F<sup>o</sup> Broadside.

A copy, signed by Charles Thomson, is in the Library of Congress. It measures 31.9 x 19.1 cms.

October 23.

Power of Congress over Commerce and State Laws respecting same.

565. By the United States in Congress assembled. / October 23, 1786. / The Committee, consisting of Mr. Pinckney, Mr. Smith and Mr. Henry, to whom was referred an Act of the Legislature of the State of Georgia, Passed in consequence of the Resolution of the 30th April, respecting Commerce, and the Subject of said Recommendations, having Reported,— F<sup>o</sup> Broadside.

Noted in P. L. Ford's Bibliography of the Continental Congress as No. 431. From the press of John Dunlap, an edition of 60 copies issued October 27.

1786.

Register.

566. Register of Army Certificates Register of the Certificates, / Issued by John Pierce, Esquire, / Paymaster-General, and Commissioner of the Army Accounts, for the United States. / Volume the First. / New-York: Printed by Francis Childs, at the New Printing-Office, opposite the Coffee-House Bridge. / M.DCC.LXXXVI. /

4 vols.

A set is in the Library of Congress. They measure 32.6 x 20 cms. The certificates, issued to soldiers for their pay run from No. 1-93, 843 in the 4 volumes. The Board of Treasury requested leave of Congress to print this Register September 26 (*Papers of the Continental Congress*, No. 140, II, folio 103) and the order was granted September 28.

Journals. 1785-86.

567. Journal of the United States / In Congress Assembled: / containing the Proceedings / from The 3d Day of November, 1785. / To The 3d Day of November, 1786. / Volume XII. / Published by Order of Congress. / Printed by John Dunlap. 12<sup>o</sup> pp. 267, xvi.

Both the title-page and index style this volume XII, though really XI.

A copy is in the Library of Congress. The *Register of Accounts*, No. 146 shows that the Journal was printed by signatures during the year and, usually, assembled and bound as one volume, by Robert Hodge. The binding of this volume was performed January 13, 1787.

From the *Register of Accounts*, No. 146, the following issues are difficult of identification:

1786, July 18. To 3½ Sheets expences Civil Department.

21. To 4 Sheets of Impost laws.

25. To 60 ordinances upon western Territory.

October 12. To 60 copies Reports respect Requisitions.





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