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1774-1789

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SATURDAY, JULY 21, 1787.

Congress assembled present as before.

Congress resumed the consideration of the report<sup>1</sup> of the Com<sup>es</sup> on the report of the Sec<sup>y</sup> at War relative to incursions and depredations on the frontiers of Virginia by the Wabash Indians, the Shawanese and other hostile tribes and thereupon

*Resolved* That the Superintendent of Indian Affairs for the Northern department and in case he be unable to attend then col Josiah Harmar immediately proceed to post S<sup>t</sup> Vincents or some other place more convenient in his Opinion for holding a treaty with the Wabash Indians, the Shawanese and other hostile tribes, that he inform those Indians that Congress is sincerely disposed to promote peace and friendship between their citizens and the Indians; that to this end he is sent to invite them in a friendly manner to a treaty with the United States to hear their complaints, to know the truth and the causes of their quarrels with those frontier settlers and having invited those Indians to the treaty he shall make strict enquiry into the causes of their uneasiness and hostile proceedings and form a treaty of peace with them if it can be done on terms consistent with the honor and dignity of the United States.

*Resolved* That the Superintendent of Indian Affairs for the Northern department inform the five Nations, the Hurons and other Indian nations who joined in the representation made to Congress dated 18<sup>th</sup> day of December 1786 that Congress on the 18<sup>th</sup> of the present month July 1787 received their said representation and have taken it into their serious consideration and in due time will send them an Answer.<sup>2</sup>

<sup>1</sup> See July 19, 1787.

<sup>2</sup> This resolution was added to the original report upon a motion, which, in the writing of Mr. Nathan Dane, is in *Papers of the Continental Congress*, No. 27, p. 333. After the word "consideration" the original reads as follows: "are deliberating on what the Indians has said to them and will determine relative to the treaty they have proposed, and in the meantime will send them an answer and that Congress expect they will refrain from all hostilities in the mean time."

*Resolved* That the Secretary at War place the troops of the United States in such positions as shall afford the most effectual protection to the frontier inhabitants of Pennsylvania and Virginia from the incursions and depredations of the Indians, for preventing intrusions on the federal lands and promoting a favourable issue to the intended treaty; to this end one company and a half shall remain at Venango, Fort Pitt and fort M<sup>c</sup>Intosh, one be posted on the Muskingum, one on the Miami; three at post S<sup>t</sup> Vincents and the remaining troops at the rapids of the Ohio, subject however to such changes and alterations as the commanding officer shall judge the good of the service may require.

*Resolved* That the executive of Virginia be requested to give orders to the militia in the district of Kentucky to hold themselves in readiness to unite with the federal troops in such operations as the Officer commanding them may judge necessary for the protection of the frontiers; and that on the application of the commanding Officer of the federal troops, the said executive be requested to give orders that a part of the said militia not exceeding one thousand be embodied and take such positions as the said commanding Officer shall direct for acting in conjunction with the federal troops in protecting and defending the frontier inhabitants and in making such expeditions against the Indians in case they continue hostile as Congress shall hereafter order and direct. And the militia which shall be called into the actual service of the United States for the defence of the said frontier inhabitants or the purposes of such expeditions shall be paid supported and equipped by the state, and the state shall be credited in the requisition of the current year the Amount of their pay and rations only, computed on the federal establishment for similar service; provided that no charges for the said service shall be valid unless supported by actual musters of the said Militia made by the inspector or by a field Officer of the troops of the United States agreeable to the orders of the commanding officer.

*Resolved* That the board of treasury take Order for providing for the subsistence of the Indians during the treaty and for defraying the incidental expences attending it, provided the said incidental expences shall not exceed one thousand dollars.

On the question to agree to the foregoing Resolutions as one entire Act the yeas and nays being required by M<sup>r</sup> [Abraham] Yates

<i>Massachusetts</i>			<i>Virginia</i>	
M <sup>r</sup> Holten	ay	}ay	M <sup>r</sup> Grayson	ay
M <sup>r</sup> Dane	ay		M <sup>r</sup> R H Lee	ay
<i>New York</i>			M <sup>r</sup> Carrington	ay
M <sup>r</sup> Smith	ay	}ay	<i>North Carolina</i>	
M <sup>r</sup> Haring	ay		M <sup>r</sup> Blount	ay
M <sup>r</sup> Yates	no		M <sup>r</sup> Hawkins	ay
<i>New Jersey</i>			<i>South Carolina</i>	
M <sup>r</sup> Clarke	ay	}ay	M <sup>r</sup> Kean	ay
M <sup>r</sup> Schurman	ay		M <sup>r</sup> Huger	ay
<i>Pensylvania</i>			<i>Georgia</i>	
M <sup>r</sup> S <sup>t</sup> Clair	no	}ay	M <sup>r</sup> Few	ay
M <sup>r</sup> Irwine	ay		M <sup>r</sup> Pierce	ay
M <sup>r</sup> Bingham	ay			
<i>Delaware</i>				
M <sup>r</sup> Kearny	ay	}ay		
M <sup>r</sup> Mitchell	ay			

So it was resolved in the Affirmative.

On Motion of M<sup>r</sup> [Benjamin] Hawkins seconded by M<sup>r</sup> Ordered<sup>1</sup> That the Secretary at War report to Congress the number of medals large and small and gorgets necessary for the chiefs of the five Nations and other Northern and Western tribes and the four Southern Nations with the form of a commission to be presented to the same in the name of the United States.

Vide Com<sup>tee</sup> Book  
23 July 1787

<sup>1</sup> This order is entered by Thomson *verbatim* under the date of July 23, in the *Committee Book, Papers of the Continental Congress*, No. 190, p. 157.

[Report of Secretary at War on Indian Affairs <sup>1</sup>]

The Secretary of the United States for the department of War, to whom were referred certain papers transmitted by the Superintendent of Indian Affairs for y<sup>e</sup> Northern department

Reports,

That the message to Congress, from the chiefs of the several tribes of Indians who assembled near Detroit in December last, and the other papers transmitted by the Superintendent of Indian Affairs, for the Northern district, are so authentic and conclusive, as to leave no doubt that a confederacy has been formed by most of the tribes to the northward of the Ohio.

That numerous tribes of savages being thus bound together by a league, liable to be brought into active hostility by a single impulse of caprice, or any other cause, is a ground of serious apprehension to the United States; and which requires the exercise of the highest wisdom, and policy, in order to counteract the same.

That the design is so comprehensive and perplexing to the United States, as reasonably to excite a well grounded suspicion, that it has been dictated by the subtle policy of the british chief, in Canada, for purposes that are yet to be developed. But, however this conjecture may be founded, or whatever may be the influence, or motives which effected the confederation, your Secretary apprehends, that it now has assumed a form, and power, which renders a war, or a treaty inevitable. A slight consideration of the subject will enable the mind to form a satisfactory result of the measure which ought to be pursued.

Independent of the general but strong principles of humanity which ever forbid a war for an object which may be obtained by peaceable and honorable means; it is to be apprehended that the finances of the United States are such at present as to render them utterly unable to maintain an Indian war with any dignity or prospect of success. If it be true that the public treasury is so exhausted as to prevent efficient and economical arrangements, the United States must have recourse to the expedient of requisition for the militia of the several States and of distributing the public Arms to them which will be

<sup>1</sup> *Papers of the Continental Congress*, No. 151, pp. 283-289, read July 21, 1787. A broadside of this report is in *Papers of the Continental Congress*, No. 27, pp. 346-347. Made order for Tuesday, July 24. See July 18, 25 and 31, 1787. According to *Reports of Committees, Papers of the Continental Congress*, No. 189, p. 25, this report was filed.

totally lost. Specific supplies must also be requested of the several States which, besides being incompetent to the object, will form an enormous addition to the national debt.

But even supposing that everything could be obtained in order to make a successful war, a peace must ultimately take place with the indians by a treaty, and equal or superior sums expended therein to those which now might be effectual.

The invitation to the treaty is so artfully drawn that unless it be attended to by the United States, and a war should ensue, it will operate as a manifesto, by which it will appear that we preferred War to Peace. The appeal being made, the United States may have the verdict of mankind against them; for men are ever ready to espouse the cause of those who appear to be oppressed provided their interference may cost them nothing; But the consequence may fix a stain on the national reputation of America.

In every point of view which your Secretary has been able to place this subject, the result has been clearly and decidedly in favor of complying with the propositions for a treaty. He is aware that the subject of treaties which have been made, and the boundaries of the territory then fixed, may be again discussed. But even in this case it may be wise to extinguish with a small sum of money, a claim which otherwise may cost much blood and infinitely more money. A recurrence to the custom of Britain on this point will evince, that they thought a treaty and purchase money for land, was the most prudent measure and in no degree dishonorable to the nation. In some cases however they expended great sums to carry expeditions into the indian country, but afterwards were compelled to effect by treaty the objects that were found too expensive or too impracticable to effect by arms.

Although no data can be assumed to calculate with any precision the duration of a war with the confederated indians yet it is presumed that it ought not to be estimated less than two campaigns with 2500 or 3000 men to be employed in each. The expence of such an armament if successful for the two years could not be estimated less than two millions of dollars, one million for each year, besides the invaluable lives which would be sacrificed on the occasion, and the immense distress and loss to the nation by the abandonment of the frontiers. It is presumed that a treaty might be made, the whole expences of which including the total extinguishment of all indian claims to the

territory marked out by the treaties heretofore made, would not exceed the sum of twenty thousand dollars.

As the treaty, if Congress should think proper to adopt the idea, would be extremely important and probably serve as a basis to all future treaties, your Secretary submits the propriety of two commissioners being appointed who with the Superintendent should be authorised to hold the treaty at such time, place and manner as should be mutually agreed on.

That Congress, by instructions to be prepared for the purpose should define the objects on which the Commissioners should treat, and how far the treaties already made should in any degree be re-considered, or any gratuities be given to the tribes in whom the right to lands, contained in the boundaries defined by said treaties were formerly vested; and also an instruction to endeavor by all proper measures to dissipate the confederacy.

That a sum, not exceeding                   dollars, be expended on said treaty.

That the Secretary at War direct one or two companies of the troops of the United States to receive the orders of the Commissioners during the said treaty.

Agreeably to these ideas the following resolves are submitted.

Whereas it appears that most of the Indian tribes to the northward of the Ohio, and inhabiting the country about the Southern parts of Lake Erie, have associated themselves together into one confederacy, and whereas the said tribes by their message to the United States in Congress assembled dated at the Huron Village, near the mouth of the Detroit river, on the 18<sup>th</sup> day of December 1786, have requested that a treaty may be held, in order to settle and amicably terminate all disputes between them and the United States, and whereas it is the firm determination of the United States, not only to act with the most perfect good faith and justice to all nations and tribes, but to attend to their reasonable requests, in order to avert the miseries of war, therefore



*Resolved*, That a general treaty be held with the tribes of indians, within the limits of the United States, inhabiting the country northward of the Ohio, and about lake Eric, ~~agreeably to the united requests of the chiefs of the said tribes, dated on the 18<sup>th</sup> day of December 1786.~~

Part of this agreed to 31 July, 1787 and referred to a Comtee of 5.<sup>1</sup>

*Resolved*, That there be two Commissioners appointed who shall in conjunction with the Superintendent of the northern district be authorised to hold a treaty with the Northern indians agreeably to the comission and instructions which shall be given them for that purpose.

*Resolved*, That a sum not exceeding                   dollars, be appropriated for the said treaty, which sum shall include all the objects thereof.

*Resolved*, That the board of treasury purchase such articles of Indian goods in addition to those now in possession of the Superintendant, as shall in the opinion of the Commissioners be proper and adequate to the holding of said treaty, provided that the total amount of the goods so to be purchased do not exceed in value the sum of .

*Resolved*, That the Secretary at War direct, one or two companies of the troops of the United States to receive the orders of the Commissioners for treating with the Northern Indians during the said treaty.

All which is humbly submitted

H Knox.<sup>2</sup>

WAR OFFICE.

July 20<sup>th</sup> 1787.

<sup>1</sup> Thomson made this marginal notation and crossed out the part of the resolve indicated.

<sup>2</sup> JULY 21, 1787. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 154, the following committee was appointed:

Mr. Dyre Kearny, Mr. Edward Carrington, Mr. William Bingham, Mr. Melancton Smith and Mr. Nathan Dane on the report of the Secretary at War on Southern Indian affairs, which was read July 18, 1787. Report rendered July 31 and acted on August 3, 1789.

According to indorsement the delgates of Georgia made a motion on Indian affairs. This motion, in the writing of William Pierce, is in *Papers of the Continental Congress*, No. 73, p. 343. It is further indorsed as postponed to Monday. See July 26, 1787, where it is entered *verbatim* in the Journal and debated.

MONDAY, JULY 23, 1787.

Congress assembled present Massachusetts New York Pennsylvania Delaware Virginia North Carolina South Carolina and Georgia.

On motion <sup>1</sup> of M<sup>r</sup> [Nathan] Dane seconded by M<sup>r</sup> [Samuel] Holten

*Resolved* That all persons having unliquidated Claims against the United States pertaining to the late Commissary's Quartermaster's, hospital Cloathier's or marine department shall exhibit particular abstracts of such claims to the proper commissioner appointed to settle the accounts of those departments within eight Months from the date hereof; And all persons having other unliquidated claims against the United States shall exhibit a particular abstract thereof to the Comptroller of the treasury of the United States within one year from the date hereof; And all accounts not exhibited as aforesaid shall be precluded from settlement or allowance.

On a report of the Secretary for foreign affairs

*Resolved* That Congress are well pleased with the Conduct of Thomas Barclay esq<sup>r</sup> in the course of the Negotiations on the part of the United States with his imperial Majesty of Morocco, as detailed and represented in his and other letters and papers transmitted to them.<sup>2</sup>

<sup>1</sup> *Papers of the Continental Congress*, No. 36, III, p. 367, in the writing of Mr. Nathan Dane.

<sup>2</sup> This resolve is also entered in the *Secret Journals*. See below.

<sup>1</sup> On a report <sup>2</sup> of the Secretary for foreign Affairs, Congress agreed to the following Letter to the Emperor of Morocco

GREAT AND MAGNANIMOUS FRIEND,

We have received the letter which your imperial Majesty did us the honor to write dated the first of the month of Ramadan 1200.

We have likewise received the treaty concluded on our behalf with your Majesty, and we have expressed our perfect approbation of it, by ratifying and publishing and ordering it to be faithfully observed and fulfilled by all our Citizens.

It gives us great pleasure to be on terms of peace and Amity with so illustrious a sovereign, and we flatter ourselves that the commerce of these distant regions with your Majesty's dominions will gradually become more and more beneficial to both; especially after our Navigation shall cease to be interrupted by the <sup>3</sup> hostilities of the Neighbouring States in Africa.

Your Majesty's early and friendly attention to these new and rising States, the obliging manner in which you received and treated our Negotiator Thomas Barclay, and the liberal and disinterested terms on which your Majesty entered into Treaty with us, are strong and

<sup>1</sup> From this point to the end of the day the proceedings are entered by John Fisher and attested by Charles Thomson, in *Secret Journal Foreign, Papers of the Continental Congress*, No. 6, III, pp. 383-390. They are also entered by Thomson in *Secret Journal, Foreign Affairs, Papers of the Continental Congress*, No. 5, III, pp. 1619-1627.

<sup>2</sup> The report of the Secretary for Foreign Affairs, John Jay, dated and read July 23, 1787, is in *Papers of the Continental Congress*, No. 81, III, p. 125: 1-10. This report has emendations and markings to bring the reading into conformity with the Journal entry. The change in the introduction and other variant readings of phrases and words, simply to change the report to a *Journal* reading, have not been noted. The significant variations of the report from the *Journal* are indicated in the footnotes. See July 18, 1787.

<sup>3</sup> "Unprovoked" struck out.

shining proofs of a great mind; proofs which will remain recorded in our Annals, and which will always render your Majesty's Name respected and glorious in these western Countries.

These distinguished marks of your Majesty's good will towards us, inspire us with perfect confidence in your friendship, and induce us to request your favorable interposition to incline Algiers, Tunis and Tripoli, to peace with us on such terms as may consist with our honor and with the circumstances of our new and distant States.

Should your Majesty's mediation be the means of putting the United States at peace with their only remaining enemies, it would be an event so glorious and memorable, that your majesty's reign would thence derive additional lustre, and your name not only become more and more dear to our Citizens, but more and more celebrated in our histories.

We your Majesty's friends pray God to bless you.

Done by the United States in Congress Assembled at the City of New York the twenty third day of July in the year of our Lord One thousand seven hundred and Eighty seven.

The Secretary having further reported that from paper No 5, being a translation of a letter from the Emperor of Morocco to the King of Spain and from M<sup>r</sup> Barclay's letter of 15<sup>th</sup> of November 1786 as well as from various other documents it appears that his Catholic Majesty has in the most friendly and effectual manner interposed his good Offices in behalf of the United States of America with the Emperor of Morocco, and that to this interposition the success of their Negotiations with his imperial Majesty is in a great degree to be ascribed; Thereupon

*Resolved* That Congress entertain a high sense of the friendship which his Catholic Majesty has manifested for the United States of America on various occasions and particularly in the decided, kind and effectual manner in which he facilitated and promoted their Negotiations for a treaty of peace and Commerce with his imperial Majesty of Morocco, as well by writing directly to the Emperor in their favour as by affording such Collateral Countenance and aid as circumstances rendered expedient, and his desire of promoting the success of the Negotiation prompted.

*Resolved* Therefore that the thanks of the United States are justly due to his Catholic Majesty, that they be conveyed in a letter from Congress expressing their acknowledgements in the most explicit terms, and assuring his Majesty of their earnest desire to cultivate his friendship, by such attentions as occasions may put in their power, and as may best evince the high respect, esteem and attachment with which such repeated marks of his friendship have impressed them.

That the letter be in the following terms

GREAT AND BELOVED FRIEND,

Various circumstances having long delayed our receiving and ratifying the treaty concluded in our behalf with the emperor of Morocco, we take the earliest opportunity of manifesting to your Majesty the high and grateful sense we entertain of that kind, decided and effectual interposition of your Majesty with the Emperor in our favor, to which we are so greatly indebted for the successful issue of our Negotiations with him. Permit us therefore to present to your Majesty our sincere and Unanimous thanks for that important mark of your friendship, as well as for the many other friendly

offices with which your Majesty has on various occasions been pleased to favor us, and to assure you of our earnest desire to embrace every opportunity of evincing the respect, esteem and attachment with which your Majesty's kind attentions to the United States have impressed us.

We pray God to bestow the best blessings on your Majesty, your family and people.

Done by the United States in Congress Assembled at the City of New York the twenty third day of July in the year of our Lord one thousand seven hundred and eighty seven.

The Secretary having further reported that from the paper N<sup>o</sup> 6, and others it appears that Thomas Barclay Esq<sup>r</sup> has in the conduct of the Negociation with the Emperor of Morocco manifested a degree of prudence, address and disinterestedness which in the Opinion of the Secretary merit, the approbation of Congress, Thereupon

*Resolved* that Congress are well pleased with the conduct of Thomas Barclay Esq<sup>r</sup> in the course of the Negotiations on the part of the United States with his Imperial Majesty of Morocco, as detailed and represented in his and other letters and papers transmitted to them.

The Secretary having further reported that in his Opinion Copies of the paper N<sup>o</sup> 6 which contains the Signals agreed upon between the United States and Morocco by which their respective Vessels are to be known to each other at Sea should be sent to the Executives of the different States to the end that Copies may be given to such American masters of Vessels as may thence make

Voyages in the course of which they may expect to meet with cruisers from Morocco.<sup>1</sup>

*Resolved* That Congress agree to this part of the report and that the same, together with the paper N<sup>o</sup> 6 be referred to the Secretary for foreign Affairs to take order thereon.<sup>2</sup>

The Secretary having further reported that the paper N<sup>o</sup> 11 contains M<sup>r</sup> Barclay's Commission to Don Francisco Chiappi at Morocco constituting him the American agent at that place until the will and pleasure of Congress shall be known; and also the Names of other agents to whom he gave Similar Commissions for Mogador and Tangier, and that in his Opinion these Commissions should be confirmed.

*Resolved* That Congress approve the appointment made in their behalf by Thomas Barclay Esq<sup>r</sup> with the approbation of his Imperial Majesty of Morocco of Don Francisco Chiappi to be their agent at Morocco of Don Joseph Chiappi to be their agent at Mogador, and of Don Girelamo Chiappi to be their agent at Tangier, and that they respectively hold the said places during the pleasure of Congress, notwithstanding the resolution of the 16<sup>th</sup> of March 1784.<sup>3</sup>

<sup>1</sup> At this point there were struck out from the original report the three following paragraphs,

"Your Secretary further reports that the Paper marked N<sup>o</sup> 8 contains some interesting Information respecting the present State of Morocco, for which M<sup>r</sup> Barclay deserves Credit; but he thinks it should not at present be published, lest those who may wish to embroil us with the Emperor should make an ill natured Use of it.

"Similar Observations are in the Opinion of your Secretary applicable to the Paper marked N<sup>o</sup> 9, which contains various Matters of Information.

"The Paper N<sup>o</sup> 10 contains divers particulars relative to the Negociation, which your Secretary also thinks had better not be published."

<sup>2</sup> This resolution does not appear in the original report.

<sup>3</sup> The clause "notwithstanding the resolution of the 16<sup>th</sup> of March, 1784" was added in debate.

The Secretary having further reported that in his Opinion it will be expedient to transmit the letter for his imperial Majesty to M<sup>r</sup> Jefferson to be by him forwarded to Don Francisco Chiappi at Morocco with instructions to present it to the Emperor. That he prefers sending it by the way of France because he thinks it may thence be conveyed with the ministers dispatches to their Consul with more care and safety than it could be sent from London, and he thinks it most proper that it should pass through the hands of one of the Ministers under whose direction the Negotiation with the emperor had been placed. That in his Opinion it would also be proper to instruct the said Ministers to maintain a regular correspondence with the said agents, in order that they and Congress may be seasonably informed of every event and occurrence at the Court of Morocco that may affect the interest of the United States.

That it appears from the paper N<sup>o</sup> 10, that Taher Fennish was a friendly and important man in the conducting of the Negotiation and that the Emperors consent to a material Article in the treaty was owing to a friendly observation made by the Emperor's preacher. That in his opinion it is not only right in itself, but the most certain way to confirm and encrease friends to acknowledge and reward acts of friendship, and therefore he thinks it might be well for him to write a letter to Taher Fennish letting him know that Congress have been informed of his attentions to their Envoy, and that they are exceedingly pleased with the probity, candor



and liberality which distinguished his conduct on that Occasion.<sup>1</sup> And that a compliment might also be paid in the same letter to the liberality and benevolence of the Emperor's preacher.<sup>2</sup>

*Ordered* That this part of the report be referred back to the Secretary for foreign Affairs to take Order. And that the rest of the report be postponed.

CHA<sup>s</sup> THOMSON *Sec<sup>v</sup>*

[Report amended of committee on memorial of S. H. Parsons <sup>3</sup>]

Report of a Com<sup>es</sup> consisting of M<sup>r</sup> [Edward] Carrington M<sup>r</sup> [Rufus] King M<sup>r</sup> [Nathan] Dane M<sup>r</sup> [James] Madison and M<sup>r</sup> [Egbert] Benson amended to read as follows viz.

That the board of treasury be authorised and empowered to contract with any person or persons for a grant of a tract of land which shall be bounded by the Ohio from the Mouth of Sioto to the intersection of the western boundary of the seventh range of townships now surveying; thence by the said boundary to the northern boundary of the tenth township from the Ohio; thence by a due west line to Sioto; thence by the Sioto to the beginning upon the following terms viz.

<sup>1</sup> At this point there was struck out from the original report the following sentence,

"It might not perhaps be proper to advert too pointedly to his Friendship for the United States, lest in case Accidents should happen to the Letter it might afford a Handle against him to his Enemies at that Court; for all influential Men have Enemies."

<sup>2</sup> There was struck out from the report the following concluding sentences,

"Your Secretary regrets that the Finances of the United States will not admit of their making a Present to M<sup>r</sup> Fennish, especially as he well deserves it, and as he resides at a Court where *sine Donis friget Amicitia*. But although a Present to him might not be a great Object, yet the Precedent would excite Expectations in others, and in that Way open a Door to inconvenient Expences."

<sup>3</sup> Entered by Charles Thomson in the *Committee Book, Papers of the Continental Congress*, No. 190, pp. 154-157. It is also recorded by Charles Thomson on a broadside of the report of July 10, in *Papers of the Continental Congress*, No. 19, V, p. 32. According to indorsement and the *Committee Book*, it was referred to the Board of Treasury to take order. There are additional proposals of Parsons dated July 21, 1787 in *Papers of the Continental Congress*, No. 41, VIII, pp. 234-238. See May 9, and July 10, 1787.

The tract to be surveyed and its contents ascertained by the geographer or some other officer of the United States who shall plainly mark the said east and west line and shall render one complete plat to the board of treasury and another to the purchaser or purchasers.

The purchaser or purchasers within seven years from the completion of this work to lay off the whole tract at their own expence into townships and fractional parts of townships and to divide the same into lots according to the land Ordinance of the 20<sup>th</sup> of May 1785, complete returns whereof to be made to the treasury board.

The lot N 16 in each township or fractional part of a township to be given perpetually for the purposes contained in the said Ordinance.

The lot N 29 in each township or fractional part of a township to be given perpetually for the purposes of religion.

The lots N<sup>o</sup> 8, 11, and 26 in each township or fractional part of a township to be reserved for the future disposition of Congress.

Not more than two complete townships to be given perpetually for the purposes of an university, to be laid off by the purchaser or purchasers as near the centre as may be so that the same shall be of good land to be applied to the intended object by the legislature of the State.

The price to be not less than one dollar per acre for the contents of the said tract excepting the reservations and gifts aforesaid payable in specie loan office certificates reduced to specie value or certificates of liquidated debts of the United States, liable to reduction by an allowance for bad land and all incidental charges and circumstances whatever provided that such allowance shall not exceed in the whole one third of a dollar per acre. And in making payment the principal only of the said certificates shall be admitted and the board of treasury for such interest as may be due on the certificates rendered in payment of aforesaid prior to Jan<sup>y</sup> 1, 1786, shall issue indents for interest to the possessors which shall be receivable in payment as other indents for interest of the existing requisitions of Congress, and for such interest as may be due on the said certificates between that period and the period of payment the said board shall issue indents the payment of which to be provided for in future requisitions or otherwise.

Such of the purchasers as may possess rights for bounties of land to the late Army to be permitted to render the same in discharge of the contract, acre for acre, provided that the aggregate of such rights shall not exceed one seventh part of the land to be paid for and pro-

vided also that there shall be no future claim against the United States on account of the said rights.

Not less than 500,000 dollars of the purchase money to be paid down upon closing of the contract and the remainder upon the completion of the work to be performed by the geographer or other Officer on the part of the United States; good and sufficient security to be given by the purchaser or purchasers for the completion of the Contract on his or their part. The grant to be made upon the full payment of the consideration money and a right of entry and occupancy to be acquired immediately for so much of the tract as shall be agreed upon between the board of treasury and the purchasers.

[Report of committee on memorial of Trustees of Dickinson College <sup>1</sup>]

The Committee consisting of M<sup>r</sup> [Edward] Carrington M<sup>r</sup> [William] Few, M<sup>r</sup> [William] Bingham M<sup>r</sup> [Abraham] Clarke and [Mr. William] Irvine, to whom was referred the Memorial of the Trustees of Dickinson College, Report as follows, viz.

Whereas the United States in Congress Assembled are desirous of giving every possible aid and encouragement to the propagation of usefull Knowledge, therefore *Resolved* that the following buildings the property of the United States at Carlisle, in the State of Pennsylvania, to wit, one of those formerly, used as a foundery, two of Brick south of, and next thereto, and one of brick lately occupied as Barracks by the Regiment of Artificers, being no longer necessary for public use, be, and hereby are, granted to the Trustees of Dickinson College and their successors forever, for the use of the said College.

*Resolved* that the Secretary at War take order for selling all the remainder of the public buildings at Carlisle which may not in his opinion be necessary for public use.

[Report of committee on transportation of mails <sup>2</sup>]

The Committee consisting of M<sup>r</sup> [Nathan] Dane, M<sup>r</sup> [Benjamin] Hawkins and M<sup>r</sup> [William] Pierce to whom was referred the post master's letter report the following resolves

<sup>1</sup> *Papers of the Continental Congress*, No. 20, II, pp. 183-184, in the writing of Mr. Carrington. Read July 23, and acted on October 17, 1787. See March 28 and July 20, 1787.

<sup>2</sup> *Papers of the Continental Congress*, No. 61, p. 551, in the writing of Nathan Dane. Read July 23. On July 26, 1787 the first resolve was passed and the last respecting cross posts postponed. The last was passed July 27, 1787. See July 16, 1787.

*Resolved* that the post master General be, and he is hereby authorised and instructed to enter into contracts with sufficient security

for the conveyance of the mails for one year, commencing on the first day of January next from Portland in Massachusetts, to Savannah in Georgia, by Stage carriages ~~from Portland to Petersburg, if practicable, and from Petersburg to Savannah by Post riders,~~ 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; the third from Philadelphia to Petersburg [Suffolk in Virg<sup>a</sup>]; and the fourth from Petersburg [Suffolk] to Savannah, by such route as the Post master General may find most convenient.<sup>1</sup>

*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 first day of January next on the cross roads mentioned in the resolve of Congress passed September the 4<sup>th</sup> 1786 and [also for] on the principles therein *provided mentioned* <sup>2</sup> provided the general post office shall not be at any additional expence for the postage on s<sup>d</sup> Cross roads [in the resolution of feb<sup>y</sup> 15 1787.]

<sup>1</sup> An apparent amendment to the latter part of this resolve, undated, is as follows:

“And that the same be done by [four] ~~three~~ separate contracts the first to extend from Portsmouth to N York; The second from N York to Petersburg; and the third to extend from Petersburg to Georgia. Philadelphia; the third from Philadelphia to Petersburg and the fourth from Petersburg to Georgia.” *Papers of the Continental Congress*, No. 61, p. 558.

<sup>2</sup> In *Papers of the Continental Congress*, No. 61, p. 554, there is an undated amendment, in the writing of Mr. R. H. Lee, as follows:

“After the word (Mentioned) in the 6<sup>th</sup> line of the second resolve, insert  
And the said Postmaster General is hereby authorised and instructed to contract (in addition to the Cross Posts mentioned in the resolve aforesaid) for the establishment of a Cross Post from Fredericksburg in Virginia to Hobbs’s Hole on Rappahanock river and from thence to the Port of Entry on Yeocomico upon Potomac river. And from thence to Urbanna the Port of entry on Rappahanock river.” See July 27, 1787.

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[Letter of Secretary for Foreign Affairs transmitting letters <sup>1</sup>]

OFFICE FOR FOREIGN AFFAIRS

23<sup>d</sup> July 1787

SIR: I have the Honor of transmitting to your Excellency herewith enclosed three Letters <sup>2</sup> from M<sup>r</sup>. Adams, dated the 8<sup>th</sup> 14<sup>th</sup> and 23<sup>d</sup> May last, together with the Papers that were enclosed with them, and am with great respect, etc.,

JOHN JAY <sup>3</sup>

His Excellency

THE PRESIDENT OF CONGRESS.

TUESDAY, JULY 24, 1787.

Congress assembled present Massachusetts, New York, Pennsylvania, Delaware, Virginia, North Carolina and Georgia and from S[outh] Carolina M<sup>r</sup> [John] Kean.

On motion of M<sup>r</sup> [William] Pierce seconded by M<sup>r</sup> [Melancton] Smith.

<sup>1</sup> *Papers of the Continental Congress*, No. 80, III, p. 281, read July 23, 1787.

<sup>2</sup> *Papers of the Continental Congress*, No. 84, VI, pp. 473-474, 477, and 481-483, respectively, read July 23, 1787. The letters of May 8 and 14 deal with resolution of Congress of March 21, 1787, the settlement of questions between States, navigation of the Mississippi, fisheries and the return of Adams to America. According to indorsement they were referred to the Secretary for Foreign Affairs to report the orders preparatory to Mr. Adams' return. The letter of May 23 discusses protested bills, a new loan in Holland, diplomatic expenses and his recall. The enclosures, two protests of bills and two letters of Willink and Staphorst are on pp. 485-498. According to indorsement and the *Committee Book*, *Papers of the Continental Congress*, No. 190, p. 158, this letter and its enclosures were referred to the Board of Treasury to report. Report rendered July 26, 1787.

<sup>3</sup> JULY 23, 1787. According to indorsement and the *Committee Book*, *Papers of the Continental Congress*, No. 190, p. 154, a petition of Cosimo Medici, July 22, 1787, read July 23, for pay, was referred to the Commissioner of Army Accounts to report. *Papers of the Continental Congress*, No. 42, V, p. 403. Report rendered March 12, 1788 and acted on July 14, 1788.

Also according to indorsement a letter of Samuel Huntington to Charles Thomson, July 16, 1787, advising that he will order the delegates to attend Congress, was read (received July 23). *Papers of the Continental Congress*, No. 66, II, p. 368.

Ordered that thursday next be assigned for appointing an Officer to superintend the coinage of Copper pursuant to the Act of the 21<sup>st</sup> of April last.

<sup>1</sup> The Secretary of the United States for the department of foreign Affairs to whom were referred the letters of M<sup>r</sup> Dumas respecting the House of the United States at the Hague having reported

“That by M<sup>r</sup> Duma’s letter <sup>2</sup> of 17<sup>th</sup> November 1786, Congress are informed that the house is in a suffering condition, that it is charged with a Tax of 167 florins per Annum, that the care of it causes some expences, that it should in his Opinion be either repaired and inhabited, or sold and that he (M<sup>r</sup> Dumas) cannot occupy it without a formal order. That as any change of measures, not dictated by a change of circumstances seems to argue either want of consideration in adopting them or want of constancy to adhere to them, and as the United States have thought proper to purchase the house in question for the residence of their minister, in his Opinion it would not be expedient to order it to be sold, as well for the reasons above mentioned, as because such order, if in other respects proper would be unseasonable at present, for it would look as if the United States intended either to have no resident minister there in future, or as if the present troubles of the Republic, or the present state of their own finances had in some degree influenced the measure. That it would be adviseable to put M<sup>r</sup> Dumas into the House as thereby the expence of taking care of it will be avoided and that gentleman obliged”

<sup>1</sup> From this point to the end of the day the proceedings are entered by John Fisher and attested by Charles Thomson in the *Secret Journal Foreign, Papers of the Continental Congress*, No. 6, III, pp. 390-392. They are also entered by Thomson in *Secret Journal, Foreign Affairs, Papers of the Continental Congress*, No. 5, III, pp. 1627-1629.

<sup>2</sup> See July 6, 1787. See also July 11, 1787.

Whereupon

*Resolved* That M<sup>r</sup> Dumas be permitted to occupy and reside in the house of the United States at the Hague, until a minister of the United States shall arrive there, or until the further order of Congress, and that M<sup>r</sup> Adams do direct such repairs to be made at the expence of the United States to the said House as may be really Necessary to render it tenantable.

The Secretary having further reported

That the repeated mention which M<sup>r</sup> Dumas makes of his Accounts and of the arrearages due to him, induces him to take the liberty of hinting whether it would not be best to direct that his Accounts be settled, and that his little stipend be regularly paid to him.

*Ordered*<sup>1</sup> That this part of the report be referred to the board of Treasury to take Order.

CHA<sup>s</sup> THOMSON Sec<sup>y</sup>

[Motion of Mr. Grayson respecting copper money<sup>2</sup>]

*Resolved* that it be recommended to the different States to pass laws inflicting severe punishm<sup>t</sup> on all coiners of money, against lawful authority, and against all persons who shall import copper money from a foreign country not ~~struck~~ [directed] by the [proper] authority of Congress.<sup>3</sup>

<sup>1</sup> This order is entered in the *Committee Book, Papers of the Continental Congress*, No. 190, p. 158.

<sup>2</sup> *Papers of the Continental Congress*, No. 26, p. 655, in the writing of Mr. William Grayson. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 158, this motion was referred to a committee consisting of Mr. William Few, Mr. William Grayson and Mr. Benjamin Hawkins. Report rendered July 26, 1787.

<sup>3</sup> JULY 24, 1787. According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 158, the following was referred:

Letter of Charles Thomson to B. Franklin, February 8, 1787, together with a copy of a letter from Dr. Franklin and some other papers. Referred to the Board of Treasury to report. A copy of Thomson's letter is in *Papers of the Continental Congress*, No. 18 B, p. 109. The original of Franklin's letter is in *Papers of the Continental Congress*, No. 82, III, pp. 273-274. See February 3, 1787.

WEDNESDAY, JULY 25, 1787.

Congress assembled, present Massachusetts New York New Jersey Pennsylvania Delaware Virginia North Carolina and Georgia and from South Carolina M<sup>r</sup> [John] Kean.

Congress resumed the consideration of a report<sup>1</sup> from the Secretary at War to whom had been referred certain papers transmitted by the Superintendant of Indian Affairs for the Northern department and the following paragraph being under debate viz "That a general treaty be held with the tribes of Indians within the limits of the United States inhabiting the country northward of the Ohio and about lake Erie agreeably to the United requests of the chiefs of the said tribes dated the 18 day of December 1786" A motion was made by M<sup>r</sup> [Edward] Carrington seconded by M<sup>r</sup> [William] Grayson to amend the paragraph by striking out what follows the words "tribes of Indians", and instead thereof inserting "Northward and eastward of Ohio for the purposes of obtaining further cessions of their claims to land, and establishing permanent principles of Amity and commerce between the United States and the said Indians."

A Motion was made by M<sup>r</sup> [Nathan] Dane seconded by M<sup>r</sup> [William] Few to Amend the Amendment proposed, by striking out the words "obtaining further cessions of their claims to land and". And on the question shall those words stand the yeas and nays being required by M<sup>r</sup> [William] Grayson

<sup>1</sup> See July 21, 1787.



<i>Massachusetts</i>			<i>Virginia</i>	
M <sup>r</sup> Holten	no	}	M <sup>r</sup> Grayson	ay
M <sup>r</sup> Dane	no		M <sup>r</sup> R H Lee	ay
<i>New York</i>			M <sup>r</sup> Carrington	ay
M <sup>r</sup> Smith	no	}	<i>North Carolina</i>	
M <sup>r</sup> Haring	no		M <sup>r</sup> Blount	ay
M <sup>r</sup> Yates	no		M <sup>r</sup> Hawkins	ay
<i>New Jersey</i>			<i>South Carolina</i>	
M <sup>r</sup> Clark	ay	*	M <sup>r</sup> Kean	no
<i>Pensylvania</i>			<i>Georgia</i>	
M <sup>r</sup> S <sup>t</sup> Clair	no	}	M <sup>r</sup> Few	no
M <sup>r</sup> Irwine	ay		M <sup>r</sup> Pierce	no
M <sup>r</sup> Bingham	no			
<i>Delaware</i>				
M <sup>r</sup> Kearny	ay	}		
M <sup>r</sup> Mitchell	no			

So the question was lost and the words were struck out.

THURSDAY, JULY 26, 1787.

Congress assembled present Massachusetts New York New Jersey Pensylvania Delaware Virginia North Carolina and Georgia and from Rhode island M<sup>r</sup> [James Mitchel] Varnum and from South Carolina M<sup>r</sup> [John] Kean.

<sup>1</sup> The delegates for Georgia having moved <sup>2</sup> as follows to wit

“Whereas by information from the Superintendant of Indian Affairs for the southern department there is reason to apprehend that the Creek Indians are meditating a serious blow against the inhabitants of the state of Georgia; and whereas it is the wish of Congress to preserve peace and harmony with the said Indians and to prevent as far as may be consistent with the honor and dignity of the United States the necessity of appealing to arms to repel

<sup>1</sup> From this point to the end of the proceedings on the Georgia motion the margin of the *Journal* is marked with dots, in the form used elsewhere to indicate transfer to the *Secret Journals*. However, this proceeding was not so transferred.

<sup>2</sup> This motion was made July 21, 1787.

any attack made on the citizens of the Union be it therefore resolved that it be recommended to the state of Georgia to use every possible means to preserve peace and friendship between the citizens of that State and the upper and lower Creek Indians. That the Superintendant of Indian Affairs in the southern department be directed to inform the said Indians that if any misunderstanding should happen or the said Indians should think themselves aggrieved the same ought to be communicated to the legislature of that state or made known through him the said Superintendant to Congress for redress. That Congress are bound to draw forth a sufficient number of the forces of the Union to punish any nation or tribe of Indians that shall attempt to make war on either of the United States by attacking or killing any of their citizens."

A motion was made by M<sup>r</sup> [Melancton] Smith seconded by M<sup>r</sup> [Nathan] Dane that the said motion be committed. And on the question for commitment the yeas and nays being required by M<sup>r</sup> [William] Pierce

<i>Massachusetts</i>			<i>Delaware</i>	
M <sup>r</sup> Holten	ay	} ay	M <sup>r</sup> Kearny	ay
M <sup>r</sup> Dane	ay		M <sup>r</sup> Mitchell	ay
<i>Rhode island</i>			<i>Virginia</i>	
M <sup>r</sup> Varnum	no *		M <sup>r</sup> Grayson	no
<i>New York</i>			M <sup>r</sup> R H Lee	ay
M <sup>r</sup> Smith	ay	} ay	M <sup>r</sup> Carrington	ay
M <sup>r</sup> Haring	ay		<i>North Carolina</i>	
M <sup>r</sup> Yates	ay		M <sup>r</sup> Blount	ay
<i>New Jersey</i>			M <sup>r</sup> Hawkins	ay
M <sup>r</sup> Clark	ay	} ay	<i>South Carolina</i>	
M <sup>r</sup> Schurman	ay		M <sup>r</sup> Kean	ay *
<i>Pennsylvania</i>			<i>Georgia</i>	
M <sup>r</sup> S <sup>t</sup> Clair	ay	} ay	M <sup>r</sup> Few	ay
M <sup>r</sup> Irwine	ay		M <sup>r</sup> Pierce	no
M <sup>r</sup> Bingham	ay			

So it was resolved in the affirmative.

On the report <sup>1</sup> of a com<sup>ee</sup> consisting of M<sup>r</sup> [Nathan] Dane M<sup>r</sup> [Benjamin] Hawkins and M<sup>r</sup> [William] Pierce to whom was referred a letter <sup>2</sup> from the postmaster gen<sup>l</sup>,

*Resolved* That the post master general be and he is hereby authorised and instructed to enter into contracts with sufficient security for the conveyance of the mails for one year commencing on the first day of January next from Portland in Massachusetts to Savannah in Georgia by Stage carriages if practicable 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; the third from Philadelphia to Suffolk in Virginia and the fourth from Suffolk to Savannah by such route as the postmaster general may find most convenient.

*Resolved* That so far as respects the Contract from Suffolk to Savannah the postmaster general may agree that the Mail shall be carried twice a week from the first of May to the first of November and once a week from the first of November to the first of May.

[Report of committee on motion of Mr. Grayson <sup>3</sup>]

The Committee consisting of [Mr. William Few, Mr. William Grayson and Mr. Benjamin Hawkins,] to whom was refered a motion of M<sup>r</sup> [William] Graysons

Report the following Resolve

That it be recommended to the different States to pass laws inflicting punishment on all coiners of money, not authorised by law, and to prohibit the importation of Copper coin from any foreign Country.

<sup>1</sup> See July 23, 1787.

<sup>2</sup> See July 16, 1787.

<sup>3</sup> *Papers of the Continental Congress*, No. 26, p. 653, in the writing of Mr. William Few. Read July 26, 1787. See July 24, 1787.

[Report of committee on unjust attacks on Indians <sup>1</sup>]

The Committee consisting of [Mr. Nathan Dane, Mr. William Grayson, and Mr. Abraham Clark] to whom was referred a Clause in a report of a Committee relative to making provision for preventing wanton and unjust attacks upon the Indians, report that on carefully examining the subject referred to their consideration, they are fully convinced, that some early and effectual measures must be adopted by Congress, and the several States, whose frontiers are contiguous to the Indians, to prevent the further progress of the mutual depredations and hostilities between the Indians and some of the frontier Inhabitants of those States; the Committee are fully of Opinion, that unless a Stop be put to those mutual Injuries, they must soon produce a strong confederacy of the Indians on the frontiers, and all the calamities of a general Indian war and expose to the merciless revenge of the Savages, not only the few guilty, but all the innocent Inhabitants of the frontier Settlements, that the murders and evils complained of, are the result of repeated aggressions, as well on the part of some of the frontier Inhabitants, as on the part of the Wabash and several other tribes, that mutual Injuries and apprehensions have produced so great and deep rooted animosities that no peace or cessation of hostilities can, reasonably, be expected to subsist between the parties, while an opportunity remains to lawless persons to attack the Indians with impunity, but as there is, at present, no system of civil law established in the territory of the United States North west of the river Ohio, whereby the conduct of individuals can be controuled, or their offences or Crimes prevented or punished therein, the committee conceive, that, however it ought, in general, to be an object with Governments to try and punish Offenders, not in military service, according to the Course of the civil laws of the land, yet, until such laws can be established in that territory, it is highly expedient, in the present state of things there, to try and punish offenders, who shall make unauthorised attacks upon the Indians, by such laws as can be carried into effect ~~so~~ [and with such decision] as to stop the further progress of the lawless proceedings of individuals towards the Indians.

Wherefore the Committee submit the following resolves

*Resolved*, That no person, not an inhabitant of, or an officer or soldier stationed in the territory of the United States North west of

<sup>1</sup> *Papers of the Continental Congress*, No. 30, pp. 317-319, in the writing of Mr. Nathan Dane. Read July 26, 1787. See July 19, 1787.

the river Ohio, shall, after the first day of September next, and until the first day of September 1788, be allowed to pass through any part of the said territory, without a permit, ~~allowing him or her, to pass to and from a place or places particularly named,~~ Signed by the Secretary at war, the Superintendant of Indian Affairs in the Northern Department the commander of the federal troops [or commander of a separate post] the geographer of the United States, or by some other officer named for that purpose, by the Secretary at war; and any such person found in any part of the said territory, during the period aforesaid [without such permit] or not licensed to be among the indians according to the Ordinance<sup>1</sup> for regulating Indian Affairs passed August the 7<sup>th</sup> 1786, shall be arrested by the officers commanding the federal troops ~~therein, or on the frontiers of the State,~~ confined not exceeding 8 days, and sent to the frontiers of one of the States [and for a second or third offence shall be liable to be whipped not exceeding forty Stripes.]

And if any person in the said territory not otherwise liable to be punished for his or her offences shall kill, wound, assault or beat any Indian; destroy, secretly, or forceably, take away his or her property without lawful authority such person shall be arrested, confined, tried and punished in the same manner as the soldiers in the actual service of the United States in the said territory, may be arrested confined, tried, and punished for like Offences, and this law for punishing wrongs done to the Indians shall remain in force until other laws shall be made for trying and punishing the same ~~wrongs~~.

*Resolved,* that it be recommended to the States of New York, Pennsylvania, Virginia, North Carolina, and Georgia to pay particular attention to the execution of their respective laws for preventing their Citizens respectively, from wrongfully invading the rights of the Indians, and to the revision of those laws where the same may be inadequate to the purposes of preventing Injuries being done to them when within the limits of the respective States.

<sup>1</sup> *Journals*, vol. XXXI, pp. 490-493.

[Report of Board of Treasury on loan <sup>1</sup>]

The Board of Treasury to whom was referred a Letter of the 23<sup>d</sup> May last, from the Honble. M<sup>r</sup> Adams, together with two Copies of Letters of the 15<sup>h</sup> and 18<sup>h</sup> of the same Month, from Mess<sup>rs</sup> Wilhem and Jan Willink, and Nicholas and Jacob Van Staphorst, Commissioners of the Loans in Holland,

Beg leave to Report,

That it appears by the said Letters, that in consequence of a disappointment in the Funds destined for the payment of the Interest, which became due on the Dutch Loans, in the Month of June last, the Commissioners had effected a Loan in Holland, with the approbation and concurrence of the Honorable M<sup>r</sup> Adams, for One Million of Florins.

That the Letters of the said Commissioners state, that the said Loan will cost the United States Eight per Cent, including Premium, Brokerage, &c; but as it is observed by these Gentlemen, that the Loan was opened on the same Terms with the five per Cent Loan, it must be presumed, that the meaning of the said Commissioners is, that the Interest for the first Year, including the charges &c. will be Eight per Cent; that is, the rate of Interest five per Cent; Premium and Charges Three per Cent.

On the above Reference, two questions present themselves. The first, whether the opening the said Loan was, under the circumstances stated by the Hon'ble. M<sup>r</sup> Adams and the Commissioners of the Dutch Loans, necessary. The second, whether the terms are such, as the United States ought from the same considerations to ratify.

In order to shew the necessity of the said Loan, it is stated by the said Commissioners,

1<sup>st</sup> That certain Bills of Exchange remitted by the Commissioners of the Board of Treasury, for the payment of the June Interest had not been accepted, amounting to 75,000 Florins, and 2<sup>d</sup>, That the considerable Drafts made on them by the Hon'ble. M<sup>r</sup> Jefferson and M<sup>r</sup> Adams, had reduced the Balance, at that time in their hands, much below the Statement made by the Board of Treasury. What the

<sup>1</sup> *Papers of the Continental Congress*, No. 138, I, pp. 5-12, read July 26, 1787. The covering letter of the Board, also read, is in *Papers of the Continental Congress*, No. 140, I, p. 391. According to indorsement the subject was made order for Monday and the contract was ratified October 11, 1787. See July 23, 1787.

amount of these Drafts are, the Board cannot ascertain, no Account Current having accompanied these Letters.

The Interest which became due on the 1 <sup>st</sup> June last was.....	fls 250, 000.
When the Remittance of the above Bills was made there appeared to be a	
Balance in the hands of the Commissioners of Loans, of.....	15, 015:16:-
Since which the following Remittances were made Viz.....	
Cargoe of the Brigantine New York with 250 Hhds. of Tobacco.....	29, 720.
Robert Morris' Bill of Exchange on Wilhem and Jan Willink, payable 1 <sup>st</sup> June last and accepted by that House.....	50, 000.
Constable, Rucker, & C <sup>os</sup> Bills, not accepted, (owing to M <sup>r</sup> Rucker leaving Europe).....	75, 000.
Supposed Deficiency.....	80, 174: 4:-
As above.....	250, 000.

By this Statement it appeared to the Board, that the deficiency including what M<sup>r</sup> Adams might probably have occasion to draw for, would not exceed 100,000 Florins, or 40,000 Dollars, and as the Commissioners of the Loans had before appropriated 60,000 Florins of the Monies in their hands, towards the payment of Premiums of the former Loan, (which might have been discharged agreeably to Contract by New Bonds,) the Board did not doubt, but on their assurance of providing for the balance the Commissioners would make up the Sum necessary for the June Interest.

This assurance, the Board gave to the Commissioners, relying on the Specie Tax of the State of Virginia in a particular manner, for enabling them to fulfill their promises. A resource, which for the present, is at least suspended, if not diverted to other purposes than those of the Union.

When this Statement was made, the Board had no reason to suppose, that any considerable Disbursements on account of the Barbary Treaties, would diminish the Monies in the hands of the Commissioners of Loans; because they knew the Treaty with Morocco was concluded; that considerable Sums appeared to have been drawn from the Commissioners which they presumed was for that purpose; and that there was no probability of concluding a Treaty with Algiers, which was judged the most expensive object.

From the disappointment which attended the remittance of Mess<sup>rs</sup> Constable, Rucker, & C<sup>os</sup> Bills, added to the Drafts made by M<sup>r</sup> Adams and M<sup>r</sup> Jefferson, we presume, that instead of One hundred thousand Florins, which on the calculations of the Board, the Com-

missioners of Loans would have had to Advance, on the first of June last, in order to complete the June interest, the Sum necessary for that purpose could not be less than twice that amount.

Under such circumstances, a further Loan became in the opinion of the Board necessary, to prevent the total ruin of our Public Credit with the Money Lenders in Holland; And as no States in the Union, except those of Virginia and New York, have past Acts in pursuance of the Requisition<sup>1</sup> of the 2<sup>d</sup> of August 1786, it is probably fortunate, that the Commissioners have been able to succeed in extending it to a Million of Florins. By these means the credit of the United States in Holland may be preserved fore one Year more; an object which could not otherwise have been hoped for by means of the Requisitions, which in all probability will not produce in that period, more than what will be sufficient for the support of the Civil Establishment.

As to the Terms, which are said to be those of the Five Million Loan, the Board are of Opinion, that considering the present situation of these States, the scarcity of Money in Europe, and the short time which M<sup>r</sup> Adams had to complete the Negotiation in, that they are as favorable as could have been reasonably expected. The rate of Interest for the first Year, including charges &c. appears high; but when it is considered, that this Sum was absolutely necessary for Foreign Remittances in the course of eighteen Months; and that the Remittance of the same at the current rate of Exchange, together with the loss of Interest on Monies, from the time, they could be invested in Bills of Exchange, and those Bills paid in Europe, would exceed the rate of Interest and Charges for the first Year, the Negotiation will not appear disadvantageous to the United States; for if Funds could have been raised to an equal amount in this Country, the reverse of which is the case, the state of the Negotiation would have been as follows, viz.

The rate of Exchange may be estimated above par.....	6½
Loss of Interest for four Months, at 6 p C!.....	2
	8½ p Cent.

Congress will observe, that notwithstanding the embarrassments which the General Treasury have been subjected to for the space of more than Eighteen Months, from an almost total stagnation in the receipt of Taxes, that this Board have not thought it advisable to recommend an augmentation of the Foreign Debt; A circumstance

<sup>1</sup> *Journals*, vol. XXXI, pp. 461-465.



which from the present unfavorable state of the Finances of this Country, as well as its Commerce, ought by every possible means to be avoided.

The United States in Congress have on their part done every thing within the present powers of the General Constitution to induce the several States to comply with their respective Quota's, so as not only to render an augmentation of the Foreign Debt unnecessary, but to provide for its reduction; The States therefore, and particularly those which have been most delinquent in the payment of their several Quotas into the General Treasury, are responsible for the ill consequences, as well as the expence, accruing on the augmentation of the Foreign Debt.

On the whole, it is the Opinion of this Board, that the conduct of the Honorable M<sup>r</sup> Adams, and of the Commission of the Dutch Loans, in completing a Loan for One Million of Florins, on the terms of the former Loan of Five Millions, should be approved of; And that a ratification of the same in the usual form, should be transmitted without delay.

All which is humbly Submitted

July 25<sup>th</sup> 1787.

SAMUEL OSGOOD  
ARTHUR LEE

[Report of Secretary for Foreign Affairs on return of Mr. Adams <sup>1</sup>]

OFFICE FOR FOREIGN AFFAIRS

26<sup>th</sup> July 1787

The Secretary of the United States for the Department of foreign Affairs, to whom was referred two Letters from the Honorable M<sup>r</sup> Adams of the 24<sup>th</sup> and 27<sup>th</sup> January last,

Reports,

The first of these Letters gives Occasion to several Questions.

Shall M<sup>r</sup> Adams return after the Expiration of his commission to the Court of London, viz<sup>t</sup> 24<sup>th</sup> Feb<sup>r</sup> 1788?

Your Secretary is persuaded that M<sup>r</sup> Adams really wishes and means to return next Spring, and therefore thinks it would be proper for Congress to Resolve, that the Hon'ble John Adams Esq<sup>t</sup>, the Minister Plenipotentiary of the United States at the Court of London, be permitted (agreeably to his Request) to return to America at any

<sup>1</sup> *Papers of the Continental Congress*, No. 81, III, pp. 127-132, read July 26, 1787. See April 11, July 23 and October 5, 1787.

Time after the 24<sup>th</sup> February in the Year of our Lord 1788; and that his Commission of Minister Plenipotentiary to their High Mightinesses do also then determine.

*Resolved*, that Congress entertain a high Sense of the Services which M<sup>r</sup> Adams has rendered to the United States in the Execution of the various important Trusts which they have from time to time committed to him, and that the Thanks of Congress be presented to him for the Patriotism, Perseverance, Integrity and Diligence with which he has ably and faithfully served his Country.

The second Question arising from this Letter is, whether it will be expedient for the United States to appoint another Minister to take the place of M<sup>r</sup> Adams at the Court of London?

On this Head your Secretary is of Opinion that it will be expedient to appoint another, because there do exist Differences between the United States and the Court of London which cannot too soon be adjusted, which must become the Subject of occasional Explanations and Negotiations, and which on the part of the United States cannot be so well managed and conducted, as by means of an intelligent and discreet Minister on the Spot. Your Secretary's Feelings strongly prompt him to retaliate the neglect of Britain in not sending a Minister here; but as he conceives that such Retaliation would eventually produce more Inconveniences than Advantages, he thinks it had better be omitted; especially as he is persuaded that this neglect will cease the Moment that the American Government and the Administration of it shall be such as to impress other Nations with a Degree of Respect, which various Circumstances deny to Congress the Means of imposing at present. He thinks it should be the Policy of the United States at present to keep all Things as smooth and easy, and to expose themselves to as few embarrassments as possible, until their Affairs shall be in such a Posture as to justify and support a more nervous Stile of Conduct and Language.

Britain disputes the Eastern Boundary of the United States, she holds important Posts and Territories on the Frontiers, and she complains that the Treaty of Peace has been violated by America. These Affairs are important, and the Management of them requires Prudence and Temper, especially considering how little the actual State of our national Affairs tends to repress the Influence, either of unfriendly Dispositions and Passions, or of that kind of Policy which the Weakness of Neighbours is very apt to suggest and promote. If Congress

should concur in the Opinion that a Minister to succeed M<sup>r</sup> Adams should be appointed, a Resolution like the following would perhaps be the most proper.

Whereas divers important Affairs still remain to be arranged and adjusted between his britannic Majesty and the United States, which on their part cannot be so well conducted as by means of a Minister Plenipotentiary at the Court of London, therefore

*Resolved*, that a Minister Plenipotentiary to reside at that Court be appointed, and that his Commission take Effect on the 25<sup>th</sup> day of February 1788 and continue in Force for the Space of three Years thereafter unless sooner revoked.

Your Secretary conceives it would be best that this Minister should be appointed so early as that he might have Time to reach London by the first of February, in Order that he may have an Opportunity of receiving Information from M<sup>r</sup> Adams respecting Characters and Affairs, and that the Progress of the Business of the Legation may not be stopped by the Expiration of M<sup>r</sup> Adams Commission.

But if Congress should either not incline to appoint another Minister, or should think proper to postpone it so long as that he will not probably be in London in February, then he thinks it would be right to consider another Question arising from the Letter, viz<sup>t</sup>

Whether it would be expedient to constitute Col<sup>l</sup> Smith Chargé des Affaires?

On this Head your Secretary finds himself embarrassed; for on the one Hand he esteems Col<sup>l</sup> Smith as a Gentleman of acknowledged Merit, who has uniformly deserved well of his Country; and on the other, the Light in which the Duties of his Office have hitherto been viewed, gives the Colour of Propriety only to his reporting on the Expediency of *Appointments*, and not on the *Persons* most proper to be appointed. And as the Letter referred to him and now under Consideration, does nevertheless raise the Question relative to the *Person* as well as the *Place*, he thinks it proper to make these Remarks, lest, (if not adverted to) his omitting to report on the *former* as well as the *latter*, might be ascribed to other than the true Reasons. He thinks that, if when M<sup>r</sup> Adams quits the Affairs of the Legation, they are not to pass immediately into the Hands of a Successor, there can be little Doubt of the Expediency of appointing a proper Person to *take Charge* of them.

In that Case therefore, it would in his Opinion be proper to *Resolve*, That a Person be appointed to take Charge of the Affairs of the American Legation at the Court of London, from the Expiration of the Commission of the present Minister, to the Arrival there of another Minister to succeed him, or until the further Order of Congress.

The next Question that arises on this Letter is, what should be done respecting the Commissions granted jointly to M<sup>r</sup> Adams and M<sup>r</sup> Jefferson?

One of two Things may be done, viz<sup>t</sup> either appoint a Successor to M<sup>r</sup> Adams and associate him with M<sup>r</sup> Jefferson, or commit the Execution of those Commissions solely to M<sup>r</sup> Jefferson.

Your Secretary further reports, that the Courts of London and the Hague will naturally be desirous to know the Intentions of Congress relative to their appointing Ministers to succeed M<sup>r</sup> Adams at both; and he wishes to be directed on this Subject, in order that his Letters to M<sup>r</sup> Adams may perfectly correspond with the Views of Congress.

All which is submitted to the Wisdom of Congress.

JOHN JAY.

FRIDAY, JULY 27, 1787.

Congress assembled present as yesterday.

Congress resumed the consideration of the report <sup>1</sup> of the committee on the letter from the postm<sup>r</sup> gen<sup>l</sup> and thereupon

*Resolved* That the postmaster general be and he is hereby authorised and instructed to make arrangements for the transportation of the mail for one year from the first day of January next on the cross roads mentioned in the resolve <sup>2</sup> of Congress passed the 4<sup>th</sup> Sept 1786 and also for the establishment of a cross post from Fredericksburg in Virginia to Hobb's Hole on Rappahanock river and from thence to the port of Entry on Yeocomico upon Potomac river And from thence to Urbanna the port of entry on Rappahanock river, On the principles provided in the resolution of the 15<sup>th</sup> of Feb<sup>r</sup> 1787.

<sup>1</sup> See July 23, 1787.

<sup>2</sup> *Journals*, vol. XXXI, pp. 629-630.

<sup>1</sup> A Motion <sup>2</sup> being made by M<sup>r</sup> [William] Grayson seconded by M<sup>r</sup> [John] Kean "That the Minister plenipotentiary of the United States at the Court of France be directed to form a Confederacy with the powers of Europe who are now at War with the piratical States of Algiers, Tripoli and Tunis or may be disposed to go to War with them for the purpose of protecting and securing the Citizens and Subjects of the contracting parties in the free navigation of the Mediterranean Sea. That it be an Article in the said Confederation that none of the contracting parties shall make peace with any of the said piratical States in which the whole Confederacy shall not be included and in case a general peace shall be concluded between the belligerent powers that the whole Confederacy shall be guaranties of the same, and in case of an aggression on the part of the said piratical States they shall be obliged to have justice done by recommencing hostilities and continuing the same until this end is effected. That there be an Article stipulating the quotas of the different powers in Men and Shipping ascertaining their stations at different periods and fixing the general Command in such manner as may best secure the desired object."<sup>3</sup> They at the same time

<sup>1</sup> From this point to the end of the *Journal* entry for this day the proceedings are entered by Benjamin Bankson and attested by Charles Thomson, in the *Secret Journal Foreign, Papers of the Continental Congress*, No. 6, III, pp. 392-399. They are also entered by Thomson and Bankson, in *Secret Journal, Foreign Affairs, Papers of the Continental Congress*, No. 5, III, pp. 1629-1639.

<sup>2</sup> *Papers of the Continental Congress*, No. 81, III, pp. 143-145, in the writing of Mr. William Grayson.

<sup>3</sup> The following conclusion of the original motion was struck out "Provided nevertheless that the Quota of the U. S. of America from their great distance from the scene of action, as well as the little trade they at present carry on in the Mediterranean be not rated higher than one frigate and two sloops of war." At the end of the motion, there is also a list of powers, which is crossed off, as follows: "The Pope, The Venetians, Genoese, Emperor, Milan, Turin, Sweden, Denmark, Hanse towns, two Sicilies, Sardinia, Portugal, Russia, Tuscany, Malta."

moved that the above Motion be referred to the Secretary for Foreign Affairs to report.

And on the question for reference the yeas and nays<sup>1</sup> being required by M<sup>r</sup> [William] Grayson

<i>Massachusetts</i>			<i>Delaware</i>	
M <sup>r</sup> Holten	ay	}ay	M <sup>r</sup> Kearny	ay
M <sup>r</sup> Dane	ay		M <sup>r</sup> Mitchell	ay
<i>Rhode Island</i>			<i>Virginia</i>	
M <sup>r</sup> Varnum	ay	*	M <sup>r</sup> Grayson	ay
<i>New York</i>			M <sup>r</sup> R H Lee	ay
M <sup>r</sup> Smith	ay	}ay	M <sup>r</sup> Carrington	ay
M <sup>r</sup> Haring	ay		<i>North Carolina</i>	
M <sup>r</sup> Yates	no		M <sup>r</sup> Blount	ay
<i>New Jersey</i>			M <sup>r</sup> Hawkins	ay
M <sup>r</sup> Clark	no	}no	<i>South Carolina</i>	
M <sup>r</sup> Schurman	no		M <sup>r</sup> Kean	ay
<i>Pensylvania</i>			<i>Georgia</i>	
M <sup>r</sup> S <sup>t</sup> Clair	ay	}ay	M <sup>r</sup> Few	ay
M <sup>r</sup> Irwine	ay		M <sup>r</sup> Pierce	ay

So it was resolved in the Affirmative.

CHA<sup>s</sup> THOMSON Sec<sup>y</sup>

The Secretary for Foreign Affairs having written<sup>2</sup> to Congress as follows

“OFFICE FOR FOREIGN AFFAIRS

27 July 1787.

SIR: I have the honor of transmitting to your Excellency herewith enclosed a letter<sup>3</sup> of 23<sup>d</sup> Ins<sup>t</sup> from the Governor of Rhode Island together with a number of papers which were delivered to me with it. This Letter

<sup>1</sup> In *Papers of the Continental Congress*, No. 6, the yeas and nays are by States only. This portion of the entry is taken from *Papers of the Continental Congress*, No. 5.

<sup>2</sup> *Papers of the Continental Congress*, No. 80, III, pp. 285–286, read July 27, 1787.

<sup>3</sup> John Collins to John Jay, in *Papers of the Continental Congress*, No. 78, VI, pp. 339–340, with accompanying documents on pp. 343–344, 347–352.

and these papers respect a Sloop of that State called the Sally which in the month of March last putting into Tobago in distress as is represented was there seized and condemned and sold. An Appeal was made and granted from the sentence to the Admiralty in France. As the Cause is in the regular course of judicial enquiry I think the papers should be returned and that Congress can at present do nothing more than direct me to send a Copy of the Governor's Letter to M<sup>r</sup> Jefferson and instruct him to afford the Appellants such protection and aid as circumstances may render proper. In case their state of facts should prove well founded and the sentence be reversed it would also in my opinion be well for him to intimate to the Minister the expediency of more caution in their Officers; for that the sentiments as well as the Commerce of America must naturally be affected by instances of such licentious severities."

*Ordered* That the said Letter with the papers accompanying it be referred back to the Secretary for Foreign Affairs to take Order.

CHA<sup>s</sup> THOMSON *Sec<sup>y</sup>*

The Secretary of the United States for the department of Foreign Affairs to whom was referred a Letter <sup>1</sup> of 14<sup>th</sup> February last from the hon<sup>ble</sup> M<sup>r</sup> Jefferson, having reported <sup>2</sup>

That he presumes the following paragraph in this Letter gave occasion to its being referred to him, viz<sup>t</sup> "The Workman who was to make that of General Greene brought me yesterday the Medal in Gold, twenty three in Copper and the Die. I must beg

<sup>1</sup> See May 3, 1787.

<sup>2</sup> This report, dated July 11, read July 13, is in *Papers of the Continental Congress*, No. 81, III, pp. 121-123. See July 6, 1787.

leave through you to ask the pleasure of Congress as to the number they would chuse to have struck. Perhaps they might be willing to deposit one of each person in every College of the United States, perhaps they might chuse to give a series of them to each of the Crowned heads in Europe, which would be an acceptable present to them. They will be pleased to decide. In the mean time I have sealed up the die, and shall retain it till I am honored with their Orders as to this Medal and the others also when they shall be finished." As these Medals were directed to be struck in order to signalize and commemorate certain interesting events and Conspicuous Characters, the distribution of them should in his opinion be such as may best conduce to that end. He therefore thinks that both of M<sup>r</sup> Jefferson's hints should be improved to wit, that a series of these Medals should be presented to each of the Crowned heads in Europe and that one of each set be deposited in each of the American Colleges. He presumes that M<sup>r</sup> Jefferson does not mean that any should be presented to the King of Great Britain; for it would not be delicate; nor that by Crowned heads he meant to exclude free States from the Compliment, for to make discriminations would give Offence. In the judgment of the Secretary it would be proper to instruct M<sup>r</sup> Jefferson to present in the name of the United States one silver Medal of each denomination to every Monarch (except His Britannic Majesty) and to every Sovereign and independent State without exception in Europe and also to the Emperor of Morocco; that he also be instructed to send fifteen silver Medals of each set to Congress to be by them presented to the thirteen United States respectively and also to the Emperor of China with an



explanation and a Letter and one to General Washington; that he also be instructed to present a copper Medal of each denomination to each of the most distinguished Universities except the British in Europe and also to Count de Rochambeau, to Count d'Estaing and to Count de Grasse. And lastly that he be instructed to send to Congress two hundred copper ones of each set together with the dies.

The Secretary thinks that of these it would be proper to present one to each of the American Colleges, one to the Marquis de la Fayette and one to each of the other Major Generals who served in the late American Army. And that the residue with the dies be deposited in the Secretary's Office of the United States subject to such future Orders as Congress may think proper to make respecting them. It might be more magnificent to give golden Medals to Sovereigns, silver ones to distinguished persons and copper to the Colleges &c but in his opinion the nature of the American Governments as well as the state of their finances will apologize for their declining the Expence.

*Ordered*, That this report be referred back to the Secretary for Foreign Affairs to take Order.

CHA<sup>s</sup> THOMSON *Sec<sup>y</sup>*

The Secretary of the United States for the department of Foreign Affairs<sup>1</sup> to whom was referred that part of M<sup>r</sup> Jefferson's Letter<sup>2</sup> of the 9<sup>h</sup> January last which relates to the Consular convention Viz<sup>t</sup> "I will certainly do the best I can for the reformation of the consular convention, being persuaded that our States would be very unwilling to conform their laws either to the Convention

<sup>1</sup> The report of the Secretary for Foreign Affairs, dated May 10 and read May 11, is in *Papers of the Continental Congress*, No. 81, III, pp. 113-118.

<sup>2</sup> See April 18 and 20, 1787.

or to the scheme; but it is too difficult and too delicate to form sanguine hopes; however that there may be room to reduce the convention as much as circumstances will admit will it not be expedient for Congress to give me powers in which there shall be no reference to the scheme? The powers sent me oblige me to produce that scheme, and certainly the moment it is produced they will not abate a tittle from it. If they recollect the scheme and insist on it we can but conclude it; but if they have forgotten it (which may be) and are willing to reconsider the whole subject perhaps we may get rid of something the more of it. As the delay is not injurious to us, because the convention whenever and however made is to put us in a worse state than we are in now, I shall venture to defer saying a word on the subject till I can hear from you in answer to this. The full powers may be sufficiently guarded by private instructions to me not to go beyond the former scheme. This delay may be well enough ascribed (whenever I shall receive new powers) to a Journey I had before apprized the Minister that I should be obliged to take to some Mineral Waters in the South of France to see if by their aid I may recover the use of my right hand of which a dislocation about four Months ago threatens to deprive me in a great measure. The Surgeons have long insisted on this measure. I shall return by Bordeaux, Nantes and L'Orient to get the necessary information for finishing our commercial regulations here. Permit me however to ask as immediately as possible an answer either affirmative or negative as Congress shall think best",

having reported

That in his opinion the Court of France regard the Consular convention in its present form as an interesting

object and that no Article or provision in it will escape their recollection. He nevertheless thinks that the policy of yielding to such circumstances as cannot without risque and hazard be neglected or controuled will induce them at least to consent to the proposed Article for limiting the duration of the Convention. And as he perceives no inconvenience likely to result from giving M<sup>r</sup> Jefferson a commission authorising him in general terms to negotiate and conclude a Convention with his Most Christian Majesty for ascertaining the authority and powers of french and American Consuls, he thinks it will be adviseable to send him such a Commission, that he may thereby have an opportunity of endeavouring to realize the advantages he expects from it and which under a new administration (perhaps not well advised of what has passed) may be attainable” Whereupon

*Resolved*, That a Commission of the following tenor be sent to M<sup>r</sup> Jefferson.

We the United States of America in Congress Assembled at the City of New York to Our well beloved Thomas Jefferson Esquire, our Minister plenipotentiary at the Court of his Most Christian Majesty &c. &c. send Greeting.

Being desirous to promote and facilitate the Commerce between our States and the Dominions of his said Majesty and for that purpose to conclude with him a convention for regulating the privileges, powers and duties of our respective Consuls, Vice Consuls, Agents and Commissaries; and having full confidence in your Abilities and integrity, We do by these presents authorise and empower you the said Thomas Jefferson in our name and behalf, to treat with any person having equal powers from his Most Christian Majesty of and concern-

ing such a convention, and the same in our name and behalf to conclude, sign and seal; And we do promise to ratify and confirm whatever convention shall in virtue of this commission be by you so concluded, provided the duration of the same be limited to any term not exceeding twelve years. Witness our Seal and the signature of his Excellency Arthur St Clair our president this 27<sup>th</sup> day of July in the Year of our Lord one thousand seven hundred and eighty seven and of our Independence the Twelfth.

*Ordered* That the following Letters be written to M<sup>r</sup> Jefferson by the Secretary for Foreign Affairs.

SIR. Congress being desirous that the Commerce between the United States and France may be promoted by every reciprocal regulation conducive to that end, wish that no time may be lost in ascertaining the privileges, powers and duties of their respective Consuls, Vice Consuls, and Commercial Agents and Commissaries.

They regret the circumstance which calls you to the South of France, but are perfectly satisfied that you should make that or any other journey which your health may require. It is their wish and instruction that on your return to the Court, your attention may be immediately directed to the above mentioned subject. Considering that Conventions of this nature however apparently useful in theory may from some defects or unforeseen circumstances be attended with inconveniences in practice, they think it best that they should be probationary at least in the first instance, and therefore that the term to be assigned for the duration of the one in question should not exceed twelve years. They also think it advisable, in order to obviate any difficulties that might arise from your not having been more formally authorized to complete this business, to give

you an express and special Commission for the purpose, which I have now the honor to enclose.

SIR. You will herewith receive another Letter from me of this date, together with the Commission mentioned in it, both of them are in pursuance of the Ideas suggested in your Letter of the 9<sup>th</sup> January last. If the whole subject should be reconsidered, and a new convention formed, it is the pleasure of Congress that the duties, powers and privileges of Consuls, Vice-Consuls, Agents and Commissaries be accurately delineated, and that they be as much circumscribed and limited as the proper objects of their appointment will admit and the Court of France will consent to. How far it may be in your power to obtain a convention perfectly unexceptionable, must depend on several circumstances not yet decided. Congress confide fully in your talents and discretion, and they will ratify any Convention that is not liable to more objections than the one already in part concluded, provided that an Article limiting its duration to a term not exceeding twelve years be inserted.

CHA<sup>s</sup> THOMSON *Sec<sup>y</sup>*

[Proceedings entered in the Committee Book <sup>1</sup>]

NEW YORK *July 26<sup>th</sup> 1787*

GENTLEMEN: We observe by the Act of the 23<sup>d</sup> Ins<sup>t</sup> that your honorable board is authorised to enter into a Contract for the sale of a tract of land therein described on certain conditions expressed in the Act. As we suppose this measure has been adopted in consequence of proposals made by us, in behalf of ourselves and Associates, to a Committee of Congress, we beg leave to inform you that we are ready to enter into a contract for the purchase of the lands described in

<sup>1</sup> *Papers of the Continental Congress*, No. 190, pp. 158-162, in the writing of John Fisher. A letter of the Board of Treasury to President of Congress, July 26, 1787, transmitting the letter of Cutler and Sargent is in *Papers of the Continental Congress*, No. 140, II, p. 431.

the Act; provided you can conceive yourselves authorised to admit of the following conditions, which in some degree vary from the report of the Committee Viz<sup>t</sup>

The subordinate Surveys shall be completed as mentioned in the Act, unless the frequency of Indian irruptions may render the same impracticable without an heavy expence to the Company.

The mode of payment we propose is half a million of dollars when the Contract is executed; another half million when the tract as described is surveyed by the proper Officer of the United States; and the remainder in six equal payments computed from the date of the second payment.

The lands assigned for the establishment of a University to be nearly as possible in the Centre of the first million and half of Acres we shall pay for; for to fix it in the Centre of the proposed purchase, might too long defer the establishment.

When the second payment is made the purchasers shall receive a deed for as great a quantity of land as a Million of dollars will pay for, at the price agreed on. After which we will agree not to receive any further deeds for any of the lands purchased, only at such periods, and on such Conditions as may be agreed on betwixt the board and the purchasers.

As to the security which the Act says shall be good and sufficient we are unable to determine what those terms may mean in the contemplation of Congress, or of your honorable board. We shall therefore only observe that our private fortunes, and that of most of our associates being embarked in the support of the purchase it is not possible for us to offer any adequate security, but that of the land itself, as is usual in great land purchases.

We will agree so to regulate the Contract, that we shall never be entitled to a right of entry, or occupancy, but on lands Actually paid for, nor receive any deeds till our payments amount to a million of dollars, and then only in proportion to such payment. The advance we shall always be under without any formal deed together with the improvements made on the lands, will we presume be ample Security, even if it was not the interest as well as the disposition of the Company to lay the foundation of their establishment, on a sacred regard to the rights of property.

If these terms are admitted we shall be ready to conclude the Contract. If not we shall have to regret, for a numerous Class of our Associates, that the Certificates they received as Specie, at the risque

of their lives and fortunes, in support of the Common cause, must, for a considerable time longer, wait the tedious and precarious issue of public events; (altho' they are willing to surrender their right in them on terms advantageous to the public;) and that the United States may lose an opportunity of securing in the most effectual manner, as well as improving the value of their western lands, whilst they establish a powerful barrier, against the irruptions of the Indians, or any attempts of the British power, to interrupt the security of the adjoining States.

We have the Honor to be, with the greatest respect for ourselves and Associates, Gentlemen, Your obedient Humble Servants.

(Signed) MAN<sup>h</sup> CUTLER  
WINTHROP SARGENT.

The Honorable  
THE BOARD OF TREASURY

Compared with the Original in the Office of the Board of Treasury  
(Signed) W<sup>m</sup> DUER Sec<sup>r</sup>.

*Ordered* That the above letter from Man<sup>h</sup> Cutler and Winthrop Sargent to the Board of Treasury containing proposals for the purchase of a tract of land described in the Act of Congress of the 23<sup>d</sup> ins<sup>t</sup> be referred to the Board of Treasury to take order, Provided that after the date of the second payment therein proposed to be made the residue shall be paid in six equal, and half yearly installments until the whole thereof shall be completed, and that the purchasers stipulate to pay interest on the sums due, from the Completion of the Survey to be performed by the Geographer.

Whereas the United States in Congress Assembled have by their ordinance<sup>1</sup> passed the 20<sup>th</sup> May 1785 among other things Ordained "that the Towns Gnadenhutten, Schoenbrun and Salem on the Muskingum and so much of the lands adjoining to the said Towns with the buildings and improvements thereon shall be reserved for the sole use of the Christian Indians who were formerly settled there, or the remains of that society, as may in the judgement of the Geographer be sufficient for them to cultivate".

*Resolved* That the board of treasury except and reserve out of any Contract they may make for the tract described in the report of the Committee which on the 23<sup>d</sup> instant was referred to the said board to take order, a quantity of land around and adjoining each of the before

<sup>1</sup> *Journals*, vol. XXVIII, p. 381.

mentioned Towns amounting in the whole to ten thousand acres, and that the property of the said reserved land be vested in the Moravian Brethern at Bethlehem in Pennsylvania, or a society of the said Brethern for civilizing the Indians and promoting Christianity, in trust, and for the uses expressed as above in the said Ordinance, including Killbuck and his descendants, and the Nephew and descendants of the late Captain white Eyes, Delaware Chiefs who have distinguished themselves as friends to the cause of America.

*Ordered* That the above be also referred to the Board of Treasury to take Order.<sup>1</sup>

SATURDAY, JULY 28, 1787.

Congress assembled present Massachusetts, New York New Jersey, Pennsylvania Delaware Virginia North Carolina and Georgia and from Rhode island M<sup>r</sup> [James Mitchel] Varnum and from South Carolina M<sup>r</sup> [Daniel] Huger.<sup>2</sup>

MONDAY, JULY 30, 1787.

Congress assembled present as on Saturday.

[Report of Board of Treasury on memorial of D. Campbell <sup>3</sup>]

The Board of Treasury to whom was referred the Memorial of Donald Campbell, with directions to Report fully on his Accounts and to Settle what is equitably due to him,

<sup>1</sup> JULY 27, 1787. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 158, a memorial of Thomas R. Kennedy, praying for payment for damages, was read. *Papers of the Continental Congress*, No. 41, V, pp. 53-54. Referred to the Board of Treasury to report. Acted on February 14, 1788.

<sup>2</sup> JULY 28, 1787 According to indorsement was read a letter of Governor Edmund Randolph to the President of Congress, January 24, 1787, respecting expenses of an expedition of the inhabitants of Kentucky against the Indians. *Papers of the Continental Congress*, No. 71, II, p. 467, with its enclosures, copies of letters of B. Logan to Governor of Virginia and G. R. Clarke to P. Henry, on pp. 471, and 473-474 respectively. See July 31, 1787.

<sup>3</sup> *Papers of the Continental Congress*, No. 138, I, pp. 159-172, read July 30, 1787. A copy of Campbell's commission as colonel is on pp. 173-174. The covering letter of the Board, also read, is in *Papers of the Continental Congress*, No. 140, II, pp. 439-440. A list of papers relating to Campbell's claims is in *Papers of the Continental Congress*, No. 19, I, p. 495. The report is indorsed as passed July 31. See April 19, 1787.



Beg leave to Report,

That they have had frequent and long Conferences with the Memorialist on the subject of his Claims, and attentively considered their merits, and find

That the Memorialist claims the pay and Emoluments of a Quarter Master General, from the 17<sup>th</sup> July 1775, to the present day.

That he claims five Years full Pay, instead of half Pay for Life, estimating the full Pay at Eighty Dollars per Month.

That he charges the United States with Six Rations of Provisions, and two Rations of Forage per day, from the 17<sup>th</sup> July 1775, to the present day; excepting some partial Receipts of those Articles with which he credits the Public, as the whole of what has ever been delivered to him, on account of those Claims, amounting to 461<sup>7</sup>/<sub>10</sub><sup>ths</sup> Continental Dollars.

That on these various Debits, he charges an Interest of 6 per Cent, striking a Balance at every four Months; so that the amount of Principal and Interest claimed by the Memorialist, on account of the abovementioned Claims, to the 17<sup>th</sup> day of May 1787, is Twenty four thousand, seven hundred and forty four Dollars, forty three Ninetieths of a Dollar.

That the Memorialist further solicits a revision of his Accounts as late Quarter Master General, which were Adjusted in pursuance of the Resolve of Congress of the 13<sup>th</sup> February 1777, in order that an additional Allowance of Interest and Commission may be made thereon; And further that the Balance stated to be due to him in the said Accounts agreeably to a Certificate of the Register of the Treasury, may be discharged in Specie.

In order to ascertain how far the Claims of the Memorialist are sanctioned by Public Authority, the Board have carefully examined the Journals of Congress, and find

That on the 17<sup>th</sup> July 1775, the Memorialist was appointed Deputy Quarter Master General for the New York Department, with the rank of a Colonel in the Army.

That by the Resolve of Congress of the 16<sup>th</sup> June 1775, the Pay of a Deputy Quarter Master General was fixed by Congress, at the rate of Forty Dollars per Month, and by that of the 21<sup>st</sup> of October 1776, he is entitled to receive six Rations per day.

That on the 13<sup>th</sup> February 1777, Colonel Campbell was continued with his former pay and rank, and directed to Settle the Accounts of his late Department.

That on the 25<sup>th</sup> of January 1779, it was *Resolved*, "That all Accounts due for back Rations of the Army to the last day of December 1776, should be exhibited to the Auditors of the Army for Settlement, previous to the 1<sup>st</sup> of June following, or be disallowed."

From the last mentioned period, untill the 31<sup>st</sup> of December 1781, there is no special or general Resolve of Congress which looks to the case of the Memorialist, unless the Act of that date should be so considered; when it was resolved by Congress, "That the Secretary at War should make Returns to Congress on or before the 20<sup>th</sup> January 1782, of the names and rank of all Officers necessary to be retained in Service; and that all Officers not included in such Returns should be considered as retiring from Service; Provided that nothing in the said Resolve should be considered as precluding any Officer so retiring, from the emoluments which he might then be entitled to by any former Acts of Congress."

This Resolve appears only to have had in view a certain description of Officers belonging to the Military Line of the late Army; and of course, could not apply to the case of the Memorialist. His appointment by the Act of Congress of the 17<sup>th</sup> July 1775, was that of a Deputy Quarter Master General, and in this capacity only, a Commission was issued to him. If therefore, no other Acts of Congress apply more directly to the case of the Memorialist, than that last mentioned, the continuation of his Commission, in pursuance of the Resolves of Congress of the 13<sup>th</sup> February 1777, must, by an equitable construction, be considered in force 'till the termination of the War.

On an investigation of this subject, no Act appears on the Journals of Congress, which can in any wise be construed to apply to the case of the Memorialist, except that of the 2<sup>d</sup> of March 1778, and that only by implication. On that date a new arrangement of the Quarter Master Generals Department took place, in consequence of which a Quarter Master General and two Assistants were appointed by Congress, and the Principal (Major General Greene) authorised to appoint all Officers under him.

In considering however, the grounds on which Colonel Campbells continuance of Pay and Rank were founded by the Resolve of the 13<sup>th</sup> February 1777, this Act appears to have been intended as a compensation for an injury, which had been sustained by that Officer, from the Sentence of a Court Martial, by which he was Cashiered in the Year 1776, and in consequence of which, a Successor was appointed to that Station in the Quarter Master Generals Department

which he before occupied. This Sentence was afterwards reversed, as severe, irregular, and unjust; so that the Act of Congress of the 13<sup>th</sup> February 1777, restoring him to his former pay and rank, ought in the opinion of the Board to be construed in a sense most beneficial to the party, whom it was calculated to relieve.

With respect to Colonel Campbells Claim for Commutation, the Board beg leave to observe,

That the Resolves of Congress of the 15<sup>th</sup> May 1778, 21<sup>st</sup> of October 1780, and 22<sup>d</sup> March 1783, relative to half pay for Life, or Commutation for half pay appear to have had only in view Officers of the Military Line of the late Army, who should continue in Service during the War, or who were reduced in pursuance of the Resolves of Congress of the 21<sup>st</sup> of October 1780.

To the numerous Officers belonging even to the line of the Army, who were left out of Service, previous to the date last mentioned, (however meritorious their Services) was no half pay or commutation allowed. The only compensation which they received was One Years pay, which was granted to them by the Act of Congress of the 24<sup>th</sup> November 1778.

As to the Officers in the Staff Department, in no instance, except in the case of the Hospital Department, has Commutation been allowed, although frequent Applications have been made to Congress for such purpose; especially by Colonels Udney Hay, and Morgan Lewis, the latter of whom succeeded Colonel Campbell as Deputy Quarter Master General, and who held the same rank with that Officer. (Vide Resolves of Congress of 23<sup>d</sup> April 1784, and 29<sup>th</sup> May 1778.)

The only Commission which Colonel Campbell held under the United States, in pursuance of the Act of Congress of the 17<sup>th</sup> July 1775, is (as before observed) that of a Deputy Quarter Master; in his capacity as such, (and no other) is he directed to be obeyed by all Officers and Soldiers under his Command; Although therefore, the Resolve of Congress of the same date, gives him the Rank of a Colonel, this rank cannot be considered in any other light, than as a rank conferred on him in consequence of his appointment on the Staff, a practice which generally prevailed in the early establishment of the Army; If therefore, the Resolve of the 17<sup>th</sup> July 1775, conferred on the Memorialist no other rank, than what is above stated, the Resolve of the 15<sup>th</sup> February 1777, cannot change the nature of such rank;

because it expressly says, that he shall be continued in his *former* pay and rank.

To admit then the right of the Memorialist to Commutation, in consequence of the Commission held by him under the United States, would establish a precedent, which other Officers of the Civil Staff Department, to whom Rank was given in consequence of their respective appointments, would have a right to avail themselves of; particularly those whose claims to Commutation, founded on similar principles with those of the Memorialist, have been rejected by Congress.

The case of Udney Hay, as stated by the Resolves of Congress of the 29<sup>th</sup> May 1778, is particularly in point. It appears by the Resolve of that date, that this Gentleman, at an early arrangement of the Quarter Master Generals Department, was appointed Assistant Deputy Quarter Master General at Ticonderoga, with the rank of Lieutenant Colonel, and that in consequence of it, he expected the same priviledges and emoluments with other Officers of the same rank in the Line. It was determined however by Congress, "that he was not entitled to any priviledge or emolument, which then did, or thereafter should accrue to any Officer of the same rank in the Line." It was further Resolved, "That no Person thereafter appointed on the Civil Staff of the Army, should hold, or be entitled to any Rank in the Army by virtue of such Staff appointment."

The first Resolve proves the sense of Congress as to the rights annexed to rank in the Army, which was conferred in virtue of Staff appointments; and the second, their determination to preclude any pretensions in persons appointed to Commissions in the Staff of the Army to the same emoluments with Officers of the Line, by removing the ground of such pretensions; namely, their rank in the Army.

In support of his Claim for Commutation, the Memorialist appears to lay stress upon the sacrifice he made of his half pay, as an Officer in the Service of the King of Great Britain, at the time he entered into the Service of the United States. Whatever equitable ground this sacrifice, on the part of the Memorialist may give to this claim, he cannot (unless authorised by his Commission) found any rightful Claim on the circumstance last mentioned. That he was an Officer in the Service of the King of Great Britain was known to Congress at the time of his appointment, and no stipulation appears to have been entered into by them in consequence of it; neither could it have been foreseen by the Memorialist, or any Officer of the United States at

that time, that such a provision as that of half pay, would have been made.

It may be further observed, that by the Resolve of Congress of the 26<sup>th</sup> January, and 11<sup>th</sup> February 1784, it appears evidently to be the sense of that Honorable Body, to admit in no instance the claim to half pay or commutation, but where the same had been actually promised. By the first Resolve it is declared, "that half pay cannot be allowed to any Officer, or to any class or denomination of Officers, to whom it had not heretofore been expressly promised." By the second it is Resolved in consequence of a Special Report of a Committee, to whom were referred several Claims for half pay or commutation, "That the Pay Master General, in Settling the Accounts of the Army, in all Claims which should be brought for half pay or Commutation, should be determined by the former Act of the 26<sup>th</sup> January 1784."

In opposition to the above Acts, the Board would not conceive themselves warranted to admit by implication, the right of the Memorialist to Commutation, if the other circumstances above stated were not, in the judgment of the Board, an actual bar to it. On the whole the Board are of Opinion,

That Colonel Campbell should be allowed the Sum of Forty Dollars per Month, from the 17<sup>th</sup> July 1775, to the 2<sup>d</sup> of June 1784; on which day the whole Army of the United States was disbanded.

That he is entitled to six Rations of Provisions per day, and Forage for two Horses, from 1<sup>st</sup> January 1776, to the 13<sup>th</sup> February 1777; (his Claim for back Rations previous to the date first mentioned being extinguished by the Resolve of Congress of the 25<sup>th</sup> January 1779.)

That the amount of these Claims (admitting to Sum of Four hundred and sixty one Dollars  $7\frac{8}{90}$ <sup>ths</sup>, which Colonel Campbell acknowledges to have received on the 5<sup>th</sup> December 1778, to go towards the Rations due to him previous to the 1<sup>st</sup> of January 1776) will be four hundred and forty Dollars,  $4\frac{9}{90}$ <sup>ths</sup>, estimating the price of Rations, from 1<sup>st</sup> January 1776 to 15<sup>th</sup> June 1776, at One shilling lawful Money per Ration; from that period to the 17<sup>th</sup> September following, at the rate of Seven pence half penny; and after that period at eight ninetyeths of a Dollar, agreeably to the Resolve of Congress of the 3<sup>d</sup> June 1777; and valuing the Ration of Forage at Fifteen Ninetieths of a Dollar, the rate usually paid for it by the late Quarter Master General.

That the above allowances, comprehend in the opinion of this Board, the whole of Colonel Campbell's just Claims against the United States.

On the above principles they submit to the consideration of Congress, the following Resolves,

That there be allowed to Donald Campbell, late a Deputy Quarter Master General in the Service of the United States, the Sum of Four thousand, two hundred and sixty Dollars, being the passed amount of the Pay due to him at the rate of Forty Dollars per Month, from the 17<sup>th</sup> July 1775, to the 2<sup>d</sup> of June 1784, being the period when the whole Army of the United States was disbanded. As also the further Sum of four hundred and forty Dollars <sup>4/90<sup>ths</sup></sup> on account of Arrearages of Rations of Provisions and Forage due to him from the 1<sup>st</sup> January 1776 to the 13<sup>th</sup> February 1777, at which period he ceased to be in actual Service.

That the above Sums bear Interest at the expiration of each Year as they respectively became due; and that the same passed be in full of all Claims of the said Donald Campbell against the United States.

With respect to that part of the Memorial of the said Donald Campbell, which relates to a Revision of his Accounts as Deputy Quarter Master General, and the payment of the Registers Certificate, issued to him for the balance found due on such Settlement, the Board for the reasons stated in their Report<sup>1</sup> of the 31<sup>st</sup> of July 1786, (which is again transmitted to Congress) submit to the consideration of that Honorable Body the following Resolve,

That the Memorial of Donald Campbell, praying that his Accounts as Deputy Quarter Master General (which were finally Adjusted on the 24<sup>th</sup> November 1781) might be revised, and that passed the Principal and Interest of the Certificate by him received for the Balance, should be discharged, cannot be complied with.

All which is humbly Submitted

July 30<sup>th</sup> 1787.

SAMUEL OSGOOD  
ARTHUR LEE

<sup>1</sup> *Papers of the Continental Congress*, No. 138, I, pp. 175-178, read August 1, 1786.

[Letter of Secretary at War respecting Col. Harmar <sup>1</sup>]

WAR OFFICE, July 30<sup>th</sup> 1787.

SIR: I humbly request permission to bring forward to the view of Congress the case of Lieutenant Colonel Harmar, the commanding officer of the troops of the United States on the Ohio.

This officer has been in service on the frontiers upwards of three years during which time his conduct has been highly meritorious and honorable to the public.

He has invariably manifested the most perfect attention to the principles of œconomy, the discipline of his corps, and to the various important political objects with which he has been charged.

The circumstances of his command have been such as to constrain him to incur expenses disproportionate to his emoluments. I had the honor to mention this subject in a letter <sup>2</sup> to Congress dated the 4<sup>th</sup> of May 1786; a copy of which is herein enclosed.

The recent orders transmitted to Lieutenant Colonel Harmar, will not only considerably enhance his expences, but may involve him in disputes of rank prejudicial to the service.

In order to avoid the evils consequent on a contention of rank with the militia officers I beg leave to suggest that Congress honor Lieutenant Colonel Commandant Harmar with the brevet rank of Brigadier General; And that an officer so highly important and confidential should not suffer the mortification of expending his own fortune in the public service I beg leave further to suggest that he should be allowed the emoluments but not the pay of said rank to commence with the time of his command on the frontiers.

The value of the additional emoluments of forage and subsistence would amount at the rate of thirty six dollars per month, or 432 dollars per annum.

The pay of the lieutenant colonel commandant is fixed at forty five dollars per month. To raise this pay to a brigadier's pay at the rate of the late war would require eighty dollars per month or 960 dollars per annum.

I mention the brevet and not the actual rank of brigadier because the number of troops in service do not require a general officer to

<sup>1</sup> *Papers of the Continental Congress*, No. 151, pp. 291-293, read July 30, and passed July 31, 1787.

<sup>2</sup> H. Knox to David Ramsey, chairman of Congress. *Papers of the Continental Congress*, No. 150, I, pp. 203-204, copy.

command them excepting when combined with militia for temporary purposes; and because the promotion of Lieutenant Colonel Harmar so as to remove him from the immediate command of his regiment, would occasion a vacancy of Lieutenant Colonel Commandant, which according to the Confederation must be filled up by the next senior officer from Pennsylvania who is a captain. A promotion which would supercede all the majors is to be avoided as a cause of great confusion and injury to the public interests.

I have the honor to submit to the consideration of Congress the following resolve,

*Resolved*, That the Secretary at War transmit to lieutenant colonel commandant Harmar a brevet commission of brigadier general, and that he be allowed the emoluments but not the pay of said rank. The allowance to commence with and continue during his command on the frontiers.

I have the honor to be, etc.,

H KNOX.<sup>1</sup>

His Excellency

THE PRESIDENT OF CONGRESS.

<sup>1</sup> JULY 30, 1787. According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 163, the following committees were appointed:

Mr. Nathan Dane, Mr. Abraham Clark and Mr. William Irvine on letters from Alexander Contee Hanson and Robert Goldsborough, jr., to Charles Thomson, July 20, 1787, read July 30, regarding their pay as federal judges in the dispute between South Carolina and Georgia. *Papers of the Continental Congress*, No. 78, X, pp. 545-549 and 553-554 respectively. Report rendered July 31, but no action taken. Additional correspondence of Hanson and Thomson is in *Papers of the Continental Congress*, No. 49, pp. 123-126, and 127. See February 5, 12 and March 5, 1788.

Mr. Nathan Dane, Mr. Edward Carrington, Mr. Abraham Clark, Mr. James Mitchel Varnum and Mr. William Irvine on a motion for the sale of lands between the Scioto and the Great Miami, on a part of a report on a new mode of selling western lands from a surveyor to be appointed etc., to that end and on a motion of Mr. Grayson.

According to indorsement and the *Committee Book* the following letters were referred:

Letter of J. Adams to J. Jay, January 27, 1787, regarding sixteen Chinese seamen and British ships under American flag. *Papers of the Continental Congress*, No. 84, VI, p. 407, with enclosures on pp. 411-416. Referred to the Secretary for Foreign Affairs to report. Report rendered July 31, 1787. See May 3, 1787.

Letter of J. Adams to J. Jay, February 24, 1787, on expenses of R. Harrison for Capt. Erwin and associates. *Papers of the Continental Congress*, No. 84, VI,



TUESDAY, JULY 31, 1787.

Congress assembled. Present Massachusetts New York New Jersey Pennsylvania Delaware Virginia North Carolina South Carolina and Georgia and from Rhode island M<sup>r</sup> [James Mitchel] Varnum.

On a report <sup>1</sup> of the board of treasury to whom was referred a memorial of Donald Campbell with directions to report fully on his Accounts and to settle what is equitably due to him,

*Resolved,*<sup>2</sup> That there be allowed to Donald Campbell late a Deputy Quarter Master General in the service of the United States the sum of four thousand two hundred and sixty dollars, being the amount of the pay due to him at the rate of forty dollars per Month, from the 17<sup>th</sup> of July 1775 to the 2<sup>d</sup> of June 1784 being the period when the whole Army of the United States was disbanded; As also the farther sum of four hundred and forty dollars 49/90<sup>ths</sup> on account of Arrearages of rations of provisions and forage due to him from the 1<sup>st</sup> January 1776 to the 13<sup>th</sup> February 1777 at which period he ceased to be in actual service.

*Resolved,* That the above sums bear Interest at the expiration of each Year as they respectively became due; and the same be in full of all claims of the said Donald Campbell against the United States.

*Resolved,* That the Memorial of Donald Campbell praying that his accounts as Deputy Quarter Master General (which were finally adjusted on the 24<sup>th</sup> November 1781) might be

p. 427, with enclosures on pp. 431-436. Referred to the Board of Treasury to report. Report rendered October 9, 1787. See May 3 and July 6, 1787.

According to indorsement was read a letter of Governor W. Smallwood to Charles Thomson, July 21, 1787, transmitting an Act of Maryland repealing the laws repugnant to the treaty with Great Britain. *Papers of the Continental Congress*, No. 70, p. 551. An attested copy of the Act of May 15, 1787 is in *Papers of the Continental Congress*, No. 75, p. 342.

<sup>1</sup> See July 30, 1787

<sup>2</sup> At this point Roger Alden takes up the entry.

revised, and that the principal and Interest of the certificate by him received for the balance should be discharged cannot be complied with.

On a report <sup>1</sup> of the Secretary at War,

*Resolved*, That the Secretary at War transmit to Lieutenant Colonel Commandant Harmar a brevet commission of brigadier general, and that he be allowed the emoluments, but not the pay of the said rank, the allowance to commence with and continue during his command on the frontiers.

[Report of committee on pay of federal judges <sup>2</sup>]

The Committee consisting of [Mr. Nathan Dane, Mr. Abraham Clark and Mr. William Irvine] to whom was referred the letters of the Honorable M<sup>r</sup> Hanson and M<sup>r</sup> Goldsborough Judges of the Federal Court instituted by the Act<sup>3</sup> of Congress passed Sep<sup>r</sup> 13, 1786, for hearing and determining a territorial dispute between the States of South Carolina and Georgia, Stating that they have attended several days in pursuance of their appointment and requesting that provision may be made for compensating their services,

Report that it appears by the Journals of Congress that it has been the practice in like Cases for the contending States to fix the allowance and pay the Judges and as this in the Opinion of the Committee is reasonable and proper therefore they submit the following resolution

*Resolved* that it be recommended to the States of South Carolina and Georgia to make adequate allowance to M<sup>r</sup> Hanson and M<sup>r</sup> Goldsborough for their services aforesaid.

<sup>1</sup> See July 30, 1787.

<sup>2</sup> *Papers of the Continental Congress*, No. 19, III, p. 39, in the writing of Nathan Dane. This report was apparently read July 31, 1787. See July 30, 1787 and February 12 and March 5, 1788.

<sup>3</sup> *Journals*, vol. XXXI, pp. 650-652.

[Report of Secretary of Congress on letter of Governor of Virginia <sup>1</sup>]

OFFICE OF SEC<sup>y</sup> OF CONGRESS

July 30, 1787

On the letter of 24 Jan<sup>y</sup> last from his Exc<sup>y</sup> the governor of Virginia stating that "in the course of last summer the inhabitants of Kentucky were compelled for their own preservation to commence expeditions against the Indians on both sides of the Ohio, that these have been recognised by the State of Virginia" and submitting to Congress "the propriety of Virginia taking credit for the expenditures against the United States and consigning to the direction of Congress the prisoners made by the troops,"

The Sec<sup>y</sup> of Congress reports

That the letter of 24 Jan<sup>y</sup> from his Ex<sup>y</sup> the Gov<sup>r</sup> of Virg<sup>a</sup> with the papers accompanying be referred to a Committee.

[Report of Board of Treasury on money to redeem captives <sup>2</sup>]

The Commissioners of the Board of Treasury beg leave to represent to Congress

That in consequence of the Letter of the Honorable M<sup>r</sup> Adams of the 8<sup>th</sup> of May last, relative to the Drafts made on him by M<sup>r</sup> Thomas Barclay, on account of the Morocco Treaty, they have judged it proper to ascertain (as nearly as the Documents in their Office will admit of it) what Sums have been expended on the negotiation for the Barbary Treaties, in pursuance of the Act of Congress of the 14<sup>th</sup> February 1785, by which Eighty thousand Dollars were appropriated out of the Funds in Europe, and made subject to the orders of the Foreign Ministers for that object, and find

That there has been advanced to M <sup>r</sup> Thomas Barclay a Sum not less than.....	£5, 000 Stl <sup>r</sup>
That there has been advanced on Drafts of M <sup>r</sup> Lamb, about.....	3, 500
	<hr/>
Sterling Money of Britain.....	£8, 500
	<hr/>

<sup>1</sup> *Reports of Secretary of Congress, Papers of the Continental Congress*; No. 180, p. 60. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 163, the letter and accompanying documents were referred to a committee consisting of Mr. James Mitchel Varnum, Mr. Abraham Clark and Mr. Nathan Dane. Report rendered August 2. See July 28, 1787.

<sup>2</sup> *Papers of the Continental Congress*, No. 59, II, pp. 315-318, read July 31, and passed October 12, 1787.

making in the whole the Sum of Thirty nine thousand, two hundred and thirty one Dollars, 67/90<sup>ths</sup> for which as yet no Vouchers of Expenditure have been exhibited. Of course the Balance of the Sum remaining from the appropriation above mentioned, is Forty thousand seven hundred and sixty nine Dollars, 23/90<sup>ths</sup>.

The Morrocco Treaty being completed, at an expence (as M<sup>r</sup> Adams says) far beyond what was expected, and M<sup>r</sup> Lambs expenditures having produced nothing, the Board beg leave to submit to the consideration of Congress, how far it may be advisable to continue this appropriation; particularly as by the Act of Congress of the 18<sup>th</sup> Instant, the Board are directed to remit or borrow Money for the purpose of redeeming the American Captives at Algiers.

What the Sum necessary for this object will be, it is not easy to ascertain; but from a communication from the Office of Foreign Affairs, transmitted to this Board on the 24<sup>th</sup> February last, it appears that on the 15<sup>th</sup> April 1786, they were Twenty one American Captives at Algiers; amongst which were two Captains.

That the ransom price of a Master of a Vessell was.....	6000 Doll <sup>s</sup>
That of a Mate.....	4000
That of a Common Seaman.....	1500

From the above data, the following estimate may be made.

Ransom Money of two Captains of Vessells a 6000 Dol <sup>s</sup> ea.....	12, 000
Ditto of four Mates 4000 “.....	16, 000
Ditto of 15 Seamen 1500 “.....	22, 500
	Dollars 50, 500

Hence it appears that the Sum necessary for redeeming the American Captives at Algiers (supposing their numbers not encreased since the 15<sup>th</sup> April 1786) would be Fifty thousand five hundred Dollars. But as it is to be presumed, that this expence will be lessened through the means which M<sup>r</sup> Jefferson may persue in this Negotiation, the Balance of the former appropriation being 40,769, 23/90<sup>ths</sup> Dollars, will probably be adequate to the object.

Under the above circumstances the Board submit to the consideration of Congress, the following Resolves, viz

That the Balance of the appropriation for the Barbary Treaties of the 14<sup>th</sup> February 1785, not hitherto applied to that object *be, and it is hereby Constituted a Fund*, for redeeming the American Captives [now] at Algiers; and that the same be for this purpose subject to the

direction of the Minister of the United States at the Court of Versailles.

That the Acts<sup>1</sup> of Congress of the 14<sup>th</sup> February 1785, and such part of the Resolves of the 18<sup>th</sup> July 1787, as directs provision to be made for the above object, be, and they are hereby Repealed.

That the Hon'ble John Adams be directed to call upon M<sup>r</sup> Thomas Barclay, and M<sup>r</sup> John Lamb for the Accounts and Vouchers of their respective Disbursements, in pursuance of the Resolves of Congress of the 14<sup>th</sup> of February 1785; and to hold the same subject to the orders of the Board of Treasury.<sup>2</sup>

All which is humbly Submitted

SAMUEL OSGOOD  
ARTHUR LEE

July 30<sup>th</sup> 1787.

[Report of Board of Treasury on memorial of J. Cochran<sup>3</sup>]

The Board of Treasury to whom was referred the Memorial of John Cochran, Commissioner of the Loan Office for the State of New York of the 18<sup>th</sup> Instant,

Beg leave to Report

That the Memorialist states, that from the large Sums of Interest, which have been Certified in the States of Massachusetts, New York, and Pennsylvania, when compared with the other States in the Union, the Transactions of his Office require necessarily so much Clerkship that it is not practicable to execute the same without loss, if no other allowance but that of his Salary is made to him, agreeably to the Act of Congress of the 23<sup>d</sup> March last, and without any compensation for Clerks, Firewood, or Candles.

From an Examination of the Returns of the several Loan Officers, it appears that a very great proportion of the business of that Department, has been transacted in the States specified by the Memorialist; and that the necessary Clerkship attending the issue of Indents, on the numerous evidences of the Public Debt, so as to prevent and detect frauds, is much more laborious than can be conceived by those who are

<sup>1</sup> *Journals*, vol. XXVIII, p. 65.

<sup>2</sup> This paragraph was crossed off by Thomson.

<sup>3</sup> *Papers of the Continental Congress*, No. 138, I, pp. 251-252, read July 31, 1787. According to indorsement it was negatived October 2, 1787. See July 18 and 20, 1787.

not acquainted with its detail. And therefore that it appears reasonable, that some distinction should be made with respect to the Commissioners so circumstanced, and those who are not.

Under the above circumstances, the Board submit to the consideration of Congress the following Resolve,

That in such States where the transactions of the Commissioners of the Loan Office, shall in the judgment of the Board of Treasury render it necessary, there be allowed one Clerk at a Salary not exceeding Four hundred Dollars per Annum; and the further Sum of One hundred Dollars per Annum, in full of all Charges for Office Rent, Candles, and Firewood.

All which is humbly Submitted

July 31<sup>st</sup> 1787.

SAMUEL OSGOOD  
ARTHUR LEE

[Report of Secretary for Foreign Affairs on Mr. Adams' letter of January 27, 1787<sup>1</sup>]

OFFICE FOR FOREIGN AFFAIRS

31<sup>st</sup> July 1787

The Secretary of the United States for the Department of foreign Affairs, to whom was referred a letter <sup>2</sup> of 27<sup>th</sup> January last from the Honorable M<sup>r</sup> Adams with the Papers referred to in it,

Reports,

That this Letter calls the Attention of Congress to two Objects, the first of which is the Case of 16 Chinese Seamen, who were then in London in a distressed Condition, and who said they had come from India in the Hyder or Hydrea, Cap<sup>t</sup> Clarke, belonging to the United States, to *Ostend*, where he discharged them. The second is "a Practice then beginning to be talked of, if not practiced, for british Merchants to metamorphose a british into an american Bottom, to trade to the East Indies."

Whether it be right or wrong for an american Vessel to discharge foreign Seamen at this or that Port, must at present depend on the Agreement made with them when shipped; so that without a Knowl-

<sup>1</sup> *Papers of the Continental Congress*, No. 81, III, pp. 135-136, read July 31, 1787. According to *Reports of Committees, Papers of the Continental Congress*, No. 189, p. 25, this report was filed. See July 30, 1787.

<sup>2</sup> See May 3, 1787.

edge of the Agreement in the present Case, the Propriety of discharging these Chinese Seamen at Ostend cannot be decided, especially as no Complaint appears to have been made by them of their having been irregularly discharged. In the Opinion therefore of your Secretary Congress cannot take any particular Notice of this Case.

As to the fraudulent Practice mentioned in the second Case, it seems doubtful whether it does really exist, or whether it is only talked of; and therefore in his Opinion the particular attention of Congress is not due to it.

It is however most certain, that the Trade of the United States to Asia, as well as to other parts of the World, should be subject to certain general Regulations; but at present, Congress cannot *ordain* such Regulations and cause them to be observed, nor while lawful *Requisitions* remain neglected, is there much Reason to expect that *Recommendations* would prove useful or proper.

They who trade to distant Nations may often find it convenient to employ Seamen of the Country, who should be encouraged to ship themselves by settled and proper Regulations, to facilitate their speedy and easy Return to their own Country, but as it is not in the Power of Congress to take effectual Measures for these and similar Purposes, he thinks it best that they should not take any.

All which is submitted to the Wisdom of Congress.

JOHN JAY.<sup>1</sup>

<sup>1</sup> JULY 31, 1787. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 163, the following committees were appointed:

Mr. Nathan Dane, Mr. Benjamin Hawkins, Mr. John Kean, Mr. William Irvine and Mr. Edward Carrington on the report of the Secretary at War, July 20, 1787, on a message from the Indians of December 18, 1786. *Papers of the Continental Congress*, No. 27, p. 346-347. A marginal note by Thomson on this broadside, states the first resolve of the report was agreed to July 31, 1787 in the following form: "That a general treaty be held with the tribes of Indians within the limits of the United States, inhabiting the country northward of the Ohio, and about Lake Erie." Report rendered August 9. See July 18, 21 and 25, 1787.

Mr. Edward Carrington, Mr. Abraham Clark and Mr. Nathan Dane, on motion of Mr. Dane respecting half pay. Report rendered October 12, 1787.

According to indorsement was read a report of the committee of July 21, 1787, on a report of the Secretary at War and other papers relating to Southern Indian affairs. *Papers of the Continental Congress*, No. 27, pp. 335-340. There is also a broadside of the report in *Papers of the Continental Congress*, No. 56, pp. 445-446. It was made order of the day for Friday, August 3 and on that day debated where the report is entered *verbatim* in the *Journal*. See July 18, 1787.

<sup>1</sup> WEDNESDAY, AUGUST 1, 1787.

Congress assembled. Present as yesterday.

On a report <sup>2</sup> of the board of treasury to whom was referred a memorial <sup>3</sup> of Samuel Nicholson late a captain in the navy of the United States

*Resolved* That the commissioner of Marine Accounts in settling the Accounts of the Officers, seamen and marines of the late navy of the United States govern himself by the principles established for the line of the Army by the Act <sup>4</sup> of Congress of the 10<sup>th</sup> of April 1780 so far as the same relates to the allowance for depreciation, provided that no Officer seaman or marine be entitled to the benefit of this resolve, who was not in service or liable to be called into service on the 10 April 1780.<sup>5</sup>

<sup>6</sup> The Secretary of the United States for the department of foreign to whom were referred two letters <sup>7</sup> from the hon<sup>ble</sup> J Adams of the 24 and 27 Jan<sup>y</sup> last having reported <sup>8</sup> that in his Opinion it would be proper to resolve, "That the hon<sup>ble</sup> J Adams the Minister plenipotentiary of the United States at the court of London be permitted agreeably to his request to return to America at any time after the 24 feb<sup>y</sup> 1788 and that his Commission of Minister plenipotentiary to their High Mightinesses do also then determine". And the same being

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

<sup>2</sup> See April 24, 1787.

<sup>3</sup> See March 23, 1787. See also July 12, 1787.

<sup>4</sup> *Journals*, vol. XVI, pp. 344-345.

<sup>5</sup> According to indorsement this resolve was also action on a report of a committee on the memorial of the officers in the Navy, which was delivered August 19, 1783. *Papers of the Continental Congress*, No. 28, p. 185.

<sup>6</sup> From this point to the end of the day the entries are by Charles Thomson in the *Secret Journal, Foreign Affairs, Papers of the Continental Congress*, No. 5, III, pp. 1639-1641.

<sup>7</sup> See April 11, 1787.

<sup>8</sup> See July 26, 1787. See also September 24, 1787.



under consideration, a motion was made by M<sup>r</sup> [Nathan] Dane seconded by M<sup>r</sup> [Abraham] Clarke to amend it by inserting immediately after 1788 the words following viz And that a person be appointed to take charge of the affairs of the American legation at the court of London from the expiration of the Commission of the present Minister to the arrival there of another Minister to succeed him or until the further order of Congress."

On the question to agree to this Amendment the yeas and nays being required by M<sup>r</sup> [Nathan] Dane

<i>Massachusetts</i>		<i>Virginia</i>	
M <sup>r</sup> Holten	ay	M <sup>r</sup> Grayson	no
M <sup>r</sup> Dane	ay	M <sup>r</sup> R H Lee	ay
<i>Rhode island</i>		M <sup>r</sup> Carrington	no
M <sup>r</sup> Varnum	no *	<i>North Carolina</i>	
<i>New York</i>		M <sup>r</sup> Blount	no
M <sup>r</sup> Haring	ay	M <sup>r</sup> Hawkins	no
M <sup>r</sup> Yates	ay	<i>South Carolina</i>	
<i>New Jersey</i>		M <sup>r</sup> Kean	ay
M <sup>r</sup> Clarke	ay	M <sup>r</sup> Huger	no
M <sup>r</sup> Schurman	no	<i>Georgia</i>	
<i>Pensylvania</i>		M <sup>r</sup> Few	no
M <sup>r</sup> S <sup>t</sup> Clair	ay	M <sup>r</sup> Pierce	no
M <sup>r</sup> Irwine	no		
<i>Delaware</i>			
M <sup>r</sup> Kearny	ay		
M <sup>r</sup> Mitchell	no		

So the question was lost.

The proposition of the Secretary for foreign Affairs being divided, on the question to agree to the first part as far as "1788" inclusive the yeas and nays being required by M<sup>r</sup> [William] Grayson

<i>Massachusetts</i>			<i>Virginia</i>	
M <sup>r</sup> Holten	no	}no	M <sup>r</sup> Grayson	ay
M <sup>r</sup> Dane	no		M <sup>r</sup> R H Lee	no
<i>Rhode island</i>			M <sup>r</sup> Carrington	ay
M <sup>r</sup> Varnum	ay	*	<i>North Carolina</i>	
<i>New York</i>			M <sup>r</sup> Blount	ay
M <sup>r</sup> Haring	ay	}d	M <sup>r</sup> Hawkins	ay
M <sup>r</sup> Yates	no		<i>South Carolina</i>	
<i>New Jersey</i>			M <sup>r</sup> Kean	no
M <sup>r</sup> Clarke	ay	}ay	M <sup>r</sup> Huger	ay
M <sup>r</sup> Schurman	ay		<i>Georgia</i>	
<i>Pensylvania</i>			M <sup>r</sup> Few	ay
M <sup>r</sup> S <sup>c</sup> Clair	no	}d	M <sup>r</sup> Pierce	ay
M <sup>r</sup> Irwine	ay			
<i>Delaware</i>				
M <sup>r</sup> Kearny	ay	}ay		
M <sup>r</sup> Mitchell	ay			

So the question was lost.

[Letter of Secretary at War regarding settlement on Wabash <sup>1</sup>]

WAR OFFICE *August 1<sup>st</sup> 1787*

SIR: I have the honor to transmit to Congress a letter just received from Colonel Harmar with an enclosure containing the propositions of M<sup>r</sup> Symmes relative to a settlement on the Wabash river.

I have the honor to be, etc.,

H KNOX

His Excellency

THE PRESIDENT OF CONGRESS.

THURSDAY, AUGUST 2, 1787.

Congress assembled. Present Massachusetts, New York, New Jersey, Pensylvania, Delaware, Virginia, North Carolina and South Carolina and from Rhode Island Mr [James Mitchel] Varnum and from Georgia Mr [William] Few.

<sup>1</sup> *Papers of the Continental Congress*, No. 150, II, p. 427, read August 1, 1787. The copy of the letter of Col. Joseph Harmar, June 15, 1787, is on pp. 423-424, and that of the propositions of Judge John Cleves Symmes, May 29, 1787, on pp. 417-421.

Mr. Pierce Butler a delegate for South Carolina attended and produced credentials whereby it appears that on the 6 March last he was appointed a delegate to represent the said state in Congress until the first Monday in November next.

[Credentials of Pierce Butler, South Carolina <sup>1</sup>]

State of South Carolina.

By His Excellency Thomas Pinckney Esquire Governor and  
Commander in Chief in and over the State aforesaid

To the Honorable Pierce Butler Esquire Greeting Know ye That by Virtue of the Power and Authority in me Vested by the Legislature of this State; I have commissioned and by these Presents, do commission you the said Pierce Butler to be a Delegate to represent this State in the Congress of the United States of America.

This Commission to continue and be in force until the first Monday in November next and no longer.

Given under my hand and the Great Seal of the State in the City of Charleston this sixth day of March, in the year of our Lord one thousand seven hundred and eighty seven, and of the Sovereignty and Independence of the United States of America the Eleventh.

THOMAS PINCKNEY

By His Excellency's Command.

PETER FRENEAU

*Secretary*

[SEAL PENDENT]

The com<sup>o</sup> consisting of Mr [James Mitchel] Varnum Mr [Abraham] Clark and Mr [Nathan] Dane to whom was referred a letter of 24 Jan<sup>y</sup> 1787 from the Governor of Virginia with the papers enclosed having reported <sup>2</sup> "That the request of Virginia to be credited the expenses of a late expedition against the Indians on both sides of the Ohio as stated in Governor Randolph's letter of the 24 Jan<sup>y</sup> last

<sup>1</sup> Original on parchment with seal pendent endorsed as read August 2, 1787, *Papers of the Continental Congress*, South Carolina Credentials; copied in *Record of Credentials, Papers of the Continental Congress*, No. 179, I, p. 220.

<sup>2</sup> The report, in the writing of Mr. James Mitchel Varnum, endorsed as read and debated on August 2, is in the *Papers of the Continental Congress*, No. 20, II, p. 327. In it the parts indicated in Mr. Grayson's motion are crossed off. See July 28 and 31, 1787.

cannot be complied with, the said expedition not having been authorised by or conducted under the knowledge or direction of the United States.

A motion was made by Mr [William] Grayson seconded by Mr [Edward] Carrington to strike out the word "cannot" and the words "the said expedition &c." to the end. And on the question shall the words moved to be struck out stand? the yeas and nays being required by Mr [William] Grayson

<i>Massachusetts</i>		<i>Delaware</i>	
M <sup>r</sup> Holten	ay	M <sup>r</sup> Kearney	ay
M <sup>r</sup> Dane	ay	M <sup>r</sup> Mitchel	ay
<i>Rhode Island</i>		<i>Virginia</i>	
M <sup>r</sup> Varnum	ay *	M <sup>r</sup> Grayson	no
<i>New York</i>		M <sup>r</sup> Lee	ay
M <sup>r</sup> Haring	ay	M <sup>r</sup> Carrington	no
M <sup>r</sup> Yates	ay	<i>South Carolina</i>	
<i>New Jersey</i>		M <sup>r</sup> Kean	ay
M <sup>r</sup> Clarke	ay	M <sup>r</sup> Huger	ay
M <sup>r</sup> Schurman	ay	M <sup>r</sup> Butler	excused
<i>Pennsylvania</i>		<i>Georgia</i>	
M <sup>r</sup> S <sup>t</sup> Clair	ay	M <sup>r</sup> Few	no *
M <sup>r</sup> Irwine	ay		

So the question was lost and the words were struck out.

[Motion of Mr. Varnum respecting a public printer<sup>1</sup>]

*Resolved* That a printer be employed by the United States, whose duty it shall be to publish the Journals of Congress, and other necessary official documents [of the U.S.]

That he also publish a paper on Tuesday's and Saturdays weekly at such place where Congress shall hold its sessions to be denominated "The ~~Union~~ [N. America Journal]" and conclude with "by authority of the United States."

<sup>1</sup> *Papers of the Continental Congress*, No. 23, pp. 315-316. The motion is in the handwriting of Mr. Varnum except the words in brackets which are alterations in another hand. According to indorsement and the *Committee Book*, *Papers of the Continental Congress*, No 190, p. 164, this motion was referred to a committee consisting of Mr. James Mitchel Varnum, Mr. Benjamin Hawkins, and Mr. William Grayson, which reported on August 3, 1787.

That the publication of "the Union [N.A.J.]", be [published] under the inspection of the Secretary of Foreign Affairs, and contain information [or under the inspection of such other person or persons as Congress may hereafter direct.] foreign and domestic;—Sentiments, moral, philosophical, and elegant;—Strictures, political, literary and historical;—And that [there] from this source of information be excluded every motive of private business [all advertisements], not immediately connected with the public interest, and also whatever may tend to slander and detraction.

That from and after the commencement of the next federal year "The Union" only be received at public expense.

[Report regarding a confederacy against the Barbary States <sup>1</sup>]

OFFICE FOR FOREIGN AFFAIRS

2<sup>d</sup> August 1787

The Secretary of the United States for the Department of foreign Affairs, to whom was referred a Motion made the 27th of last Month in the Words following, Viz<sup>z</sup>

"That the Minister Plenipotentiary of the United States at the Court of France be directed to form a Confederacy with the Powers of Europe, who are now at war with the piratical States of Algiers, Tripoli and Tunis, or may be disposed to go to war with them, for the Purpose of protecting and securing the Citizens and Subjects of the contracting Parties in the free Navigation of the Mediterranean Sea. That it be an Article in the said Confederation, that none of the contracting Parties shall make Peace with any of the said piratical States, in which the whole Confederacy shall not be included; and in Case a general Peace shall be concluded between the belligerent Powers, that the whole Confederacy shall be Guaranties of the same, and in Case of an Aggression on the part of the said piratical States, they shall be obligated to have Justice done by recommencing Hostilities and continuing the same until this End is effected. That there be an Article stipulating the Quotas of the different Powers in Men and Shipping, ascertaining their Stations at different Periods, and fixing the general Command in such Manner as may best secure the desired Object."

<sup>1</sup> *Papers of the Continental Congress*, (No. 81, III, pp. 139-142, read August 2, 1787.

Reports,

That in his Opinion it would always be more for the Honor and Interest of the United States to prefer War to Tribute.

That his sentiments on this Subject are stated in a Report <sup>1</sup> he had the Honor to make to Congress on the 20<sup>th</sup> October, 1785, to which he refers.

That the Measures proposed in that Report were founded on an Opinion, that the Resources of the United States in Seamen and Money were sufficient to execute and support them; but from Causes originating in the Inefficiency of the national Government our Navigation has since rapidly declined, and the public Revenue, depending on the Effect of Requisitions, has become inadequate to the ordinary Exigencies of the Union.

That in his Judgment a vigorous Effort to revive our Navigation and meliorate our Finances should at least accompany any Exertions to establish naval Force; for otherwise that Force will be languid and incompetent to its Object.

It is with great Regret therefore that he is obliged to consider the Motion in Question as rendered unseasonable by the present State of our Affairs.

If the Nations at War with the three States of Barbary should agree to confederate in the Manner proposed, he thinks it highly probable that the Quota of Force expected from the United States will be much greater than it would be in their Power to supply—nor would it become their Dignity to take the Lead in forming such a Confederation, unless they were prepared to support such spirited Propositions by spirited and important Operations.

As Things now are your Secretary much doubts whether Congress could find the Means of building and keeping even three Frigates well manned and provided in that Service; and if such be the Case, he thinks it will be most prudent for Congress to delay entering into the

<sup>1</sup> See *Journals*, vol. XXIX, pp. 842-844.

proposed, or indeed any other Engagements, until the Means of executing them appear clearly to be within their Reach.

All of which is submitted to the Wisdom of Congress.

JOHN JAY

[Letter of Secretary of Foreign Affairs on the case of the Little Robert <sup>1</sup>]

OFFICE FOR FOREIGN AFFAIRS

2<sup>d</sup> August 1787

SIR: I have the Honor of transmitting to your Excellency the enclosed Letter from Reade and Bogardus, and am with great Respect and Esteem, etc.,

JOHN JAY.<sup>2</sup>

His Excellency THE PRESIDENT OF CONGRESS.

<sup>1</sup> *Papers of the Continental Congress*, No. 80, III, p. 289, read August 2, 1787. The letter of Reade and Bogardus, August 1, 1787, also read, is in *Papers of the Continental Congress*, No. 78, XIX, pp. 571-572. It was referred to the Secretary for Foreign Affairs to report. Report rendered September 26, and acted on October 3, 1787.

<sup>2</sup> AUGUST 2, 1787. According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 164, the following committees were appointed:

Mr. Nathan Dane, Mr. James Mitchel Varnum, Mr. John Kean, Mr. Abraham Clark and Mr. William Grayson on a "report of the Secy for Foreign Affairs on Note of Minister of U. Netherlands touching a law of Virginia." Report was rendered September 24. The report of Secretary Jay, March 14, 1787, read March 15, is in *Papers of the Continental Congress*, No. 81, III, pp. 193-199. Van Berckel's note, February 20, 1787, with covering letter to Jay and translations, are in *Papers of the Continental Congress*, No. 99, pp. 273-284. See also October 13, 1787.

Mr. Edward Carrington, Mr. Dyre Kearny and Mr. James Scheurman on a Memorial of Adam Jamison respecting the loss of vouchers and settlement of his accounts. Report was rendered August 9, 1787. Jamison's Memorial, February 14, 1786, read March 2, 1786, with accompanying documents is in *Papers of the Continental Congress*, No. 41, IV, pp. 499-507.

Mr. Nathan Dane, Mr. Abraham Clark, Mr. James Mitchel Varnum, Mr. Richard Henry Lee and Mr. William Grayson on a motion for the reduction of the Civil List, made in 1785. Report rendered August 9, 1787. Renewal of committee of February 12, 1787.

Also on this day was read and referred:

Petition of William Gardner, late agent for clothing, July 28, 1787, regarding the settlement of his account with accompanying account. *Papers of the Continental Congress*, No. 42, III, pp. 305-309. Referred to the Board of Treasury to report. Report rendered May 2, 1788.

<sup>1</sup> FRIDAY, AUGUST 3, 1787

Congress assembled, present Massachusetts New York Pennsylvania, Delaware, Virginia North Carolina and South Carolina and from Rhode Island Mr [James Mitchel] Varnum, from New Jersey Mr [Abraham] Clark and from Georgia Mr [William] Few.

A motion <sup>2</sup> was made by Mr [William] Few seconded by Mr [William] Blount in the following words, whereas it appears by information received from the Superintendent of Indian Affairs for the southern department, that some misunderstanding prevails among the Creek Indians which it is necessary should be investigated in order that Justice may be done and such measures taken as will establish peace and friendship with the said Indians, *Resolved* that the Superintendent of Indian Affairs for the southern department be directed to invite the Kings and Headmen of the Creek Nation to a conference to be held at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ or at such other time and place as he in conjunction with the Executive of the State of Georgia may think expedient. That the legislature of the State of Georgia or in its recess, the Executive of the said State be requested to appoint a commissioner to act with the Superintendent, who are hereby authorised and instructed to inform the Creek Indians that Congress wish to hear and redress all their grievances and to establish such principles as will best secure the tranquility, peace and friendship of that nation. That the said Superintendent and commissioner be directed to enquire fully into the causes of all complaints and differences that may have arisen with the said Indians, to explain and confirm all former treaties and fix the line circumscribing the Indians hunting ground, and to use all the means in their power to satisfy and do them

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

<sup>2</sup> *Papers of the Continental Congress*, 20, II, p. 451-452, in the writing of Mr. William Few. It is endorsed as debated August 3, 1787.



ample Justice, and report to Congress in all cases where it may so happen that their powers will not extend, to fully effect those purposes. That the State of Georgia be requested to furnish suitable goods to the amount of \_\_\_\_\_ and the late commissioners for treating with Indians of the southern department be directed to deliver to the Superintendent all the Merchandize in their hands belonging to the United States to be distributed among the said Indians in such manner as may be thought most expedient by the said Superintendent and Commissioner.

A motion was then made by Mr [Nathan] Dane seconded by Mr [Richard Henry] Lee to postpone that motion in order to take up the report <sup>1</sup> of a committee on the subject of Indian Affairs in the Southern department. viz.

The committee consisting of Mr [Dyre] Kearny, Mr [Edward] Carrington, Mr [William] Bingham, Mr [Melancton] Smith and Mr [Nathan] Dane to whom was referred the report of the Secretary at War, and sundry papers relative to Indian Affairs in the southern department, and also a motion of the Delegates from the State of Georgia, report, That the said papers referred to them state, first, that certain encroachments are made on the lands of the Creek and Cherokee nations, by the people of Georgia and North Carolina. secondly, that there is no regular trade between our citizens and the Indian Nations in that department, by which those nations can obtain a certain supply of goods, arms, &c. that those nations wish to have connections with the United States only. that their necessities ~~are such~~ however, are such, that if they cannot be regularly supplied by our traders, they must listen to the repeated invitations made them to turn their trade to, and to seek supplies from

<sup>1</sup> The report is in the *Papers of the Continental Congress*, No. 27, pp. 335-340, in the writing of Mr. Nathan Dane. It was read July 31. The text of the Journal has a few verbal changes from the report. Broad-sides of the report are in *Papers of the Continental Congress*, No. 30, pp. 311-312 and No. 56, pp. 445-446.

another quarter. That the said motion among other things, states, that there is reason to apprehend the Creek Indians are meditating a serious blow against the Inhabitants of Georgia; and proposes that it be recommended to that State to use every possible means to preserve peace between her citizens and those Indians; and that Congress resolve, they are bound to draw forth a sufficient number of the forces of the Union to punish any nation or tribe of Indians that shall attempt to make war on either of the United States, by attacking or killing any of their citizens. On these subjects the committee observe, that the encroachments complained of appear to demand the serious attention of Congress, as well because they may be unjustifiable as on account of their tendency to produce all the evils of a general Indian war on the frontiers. The committee are convinced that a strict enquiry into the causes and circumstances of the hostilities often committed in and near the frontier settlements ought to be made; that it is become necessary for government to be explicit and decisive, and to see that impartial justice is done between the parties; that Justice and policy as well as the true interests of our citizens, evince the propriety of promoting peace and free trade between them and the Indians. Various circumstances shew that the Indians, in general, within the United States want only to enjoy their lands without interruption, and to have their necessities regularly supplied by our traders, and could these objects be effected, no other measures would, probably be necessary for securing peace and a profitable trade with those Indians. The committee are not informed what measures have been adopted by the Superintendants to promote a regular trade between our people and the Indian nations or for preventing intrusions upon the lands of the latter; several tribes complain that their land is taken from them, and that they suffer very much for want of such trade. As

information relative to these subjects must principally come from the frontier settlers the Indians and traders residing among them, the committee are sensible that facts cannot always be well ascertained, but in the present case, there is sufficient evidence to shew that those tribes do not complain altogether without cause. An avaricious disposition in some of our people to acquire large tracts of land and often by unfair means, appears to be the principal source of difficulties with the Indians. There can be no doubt that settlements are made by our people on the lands secured to the Cherokees, by the late treaty between them and the United States; and also on lands near the Oconee claimed by the Creeks, various pretences seem to be set up by the white people for making those settlements, which the Indians tenacious of their rights, appear to be determined to oppose. From these contrary claims, difficulties arise which are not easily removed. The respective titles cannot readily be investigated: but there is another circumstance far more embarrassing, and that is the clause in the confederation relative to managing all affairs with the Indians, &c. is differently construed by Congress and the two States within whose limits the said tribes and disputed lands are. The construction contended for by those States, if right, appears to the committee, to leave the federal powers, in this case, a mere nullity; and to make it totally uncertain on what principle Congress is to interfere between them and the said tribes; The States not only contend for this construction, but have actually pursued measures in conformity to it. North Carolina has undertaken to assign land to the Cherokees, and Georgia has proceeded to treat with the Creeks concerning peace, lands, and the objects, usually the principal ones in almost every treaty with the Indians. This construction appears to the committee not only to be pro-

ductive of confusion, disputes and embarrassments in managing affairs with the Independent tribes within the limits of the States, but by no means the true one. The clause referred to is, "Congress shall 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". In forming this clause, the parties to the federal compact, must have had some definite objects in view; the objects that come into view principally, in forming treaties or managing Affairs with the Indians, had been long understood and pretty well ascertained in this country. The committee conceive that it has been long the opinion of the country, supported by Justice and humanity, that the Indians have just claims to all lands occupied by and not fairly purchased from them; and that in managing affairs with them, the principal objects have been those of making war and peace, purchasing certain tracts of their lands, fixing the boundaries between them and our people, and preventing the latter settling on lands left in possession of the former. The powers necessary to these objects appear to the committee to be indivisible, and that the parties to the confederation must have intended to give them entire to the Union, or to have given them entire to the State; these powers before the revolution were possessed by the King, and exercised by him nor did they interfere with the legislative right of the colony within its limits; this distinction which was then and may be now taken, may perhaps serve to explain the proviso, part of the recited clause. The laws of the State can have no effect upon a tribe of Indians or their lands within the limits of the state so long as that tribe is independent, and not a member of the state, yet the laws of the state may be executed upon debtors, criminals, and other proper objects of

those laws in all parts of it, and therefore the union may make stipulations with any such tribe, secure it in the enjoyment of all or part of its lands, without infringing upon the legislative right in question. It cannot be supposed, the state has the powers mentioned without making the recited clause useless, and without absurdity in theory as well as in practice; for the Indian tribes are justly considered the common friends or enemies of the United States, and no particular state can have an exclusive interest in the management of Affairs with any of the tribes, except in some uncommon cases. The committee find it difficult to reconcile the said construction of the recited clause made by the two States, and their proceedings before mentioned, especially those of Georgia, with what they conceive to be the intentions of those who made the said motion for the committee presume that the delegates of Georgia do not mean that Congress is bound to send their forces to punish such nations as the State shall name, to act in aid of the state authority; to send her forces and recall them as she shall see fit; to make war or peace; such an Idea cannot be consistent with the dignity of the Union, and the principles of the federal compact. But the committee conceive that it is the opinion of the honorable movers, and also the general opinion, that all wars and hostile measures against the Creeks, or any other Independent tribe of Indians, ought to be conducted under the authority of the union, at least where the forces of the union are employed; that the power to conduct a war clearly implies the power to examine into the justice of the war, to make peace and adjust the terms of it; and that, therefore, the terms or words of the said motion, if it be adopted by Congress at all, must be varied accordingly. But whatever may be the true construction of the recited clause, the committee are persuaded that it must be impracticable to manage Affairs with the Indians within the

limits of the two States, so long as they adhere to the opinions and measures they seem to have adopted. The difficulties in fact exist; the States think it is their duty to counteract the powers of Congress, when carried, in conducting Affairs with those Indians, beyond those narrow limits which the said States prescribe. The question therefore is, how shall these difficulties be avoided in a manner most agreeable to both Congress and the States. The committee discern but two ways practicable; the one is for the two states to make liberal cessions of territory to the United States, the other is for those States to accede to Congress's managing, exclusively, all affairs with the Cherokees, Creeks, and other independent tribes within the limits of the said States, so that Congress in either case may have the acknowledged power of regulating trade, and making treaties with those tribes, and of preventing on their lands, the intrusions of the white people. That of making liberal cessions of territory, all things considered, appears to be the most eligible and likely to meet the approbation of the two States. several circumstances induce the committee to think this is the best mode; they presume the two States will act on liberal principles, and adopt measures founded in sound policy, and calculated to promote the national interest; they will consider that the lands proposed to be ceded were arrested from Great Britain by the common exertions of the confederacy, and that other states have ceded lands to the Union in a similar situation, which are now selling for the common benefit of all the States. The committee conceive that several other considerations cannot escape the observation of the the two States which may be urged in favor of the cessions; among other things of importance to those States, as well as to the Union, must be the advantages arising from putting the management of Indian Affairs into the hands of Congress alone, and preventing irregular and dispersed settlements on the lands

proposed to be ceded. The committee believe that the two States upon reconsidering the subject will be disposed to follow the liberal examples of the other States in a similar situation, and especially, as it will probably appear to the two states, that by making the proposed cessions, those difficulties they now experience will be removed, that is, the controversies respecting Indian Affairs, and those dispersed settlements which tend to render the governments weak and feeble, and to produce expensive and calamitous wars with the Indians. The committee further observe on the subjects referred to them, that it is probable the Indians in the southern department will turn their trade to Florida unless regularly supplied by our citizens, and traders; and that the attention of the Superintendant in that department ought to be seasonably directed to the encouragement and promotion of a regular trade between our citizens and those Indians. That the dispute between Georgia and the Creeks is become so serious, that it is probable a war will ensue, and the interference of the Union become necessary, unless early measures be adopted for settling the controversy respecting the said Oconee lands. the committee think therefore, that it should be recommended to that State to use all possible means for preserving peace with the Creeks, and that they and the Cherokees be informed that Congress are pursuing measures for adjusting all disputes about their lands. That Georgia be informed that Congress<sup>1</sup> consider the union bound by the federal compact to protect every part of the nation, as well against the unjust and unprovoked attacks of the independent tribes of Indians within the United States as against foreign powers. that Congress however can never employ the forces of the union in any cause, of the justice of which they are not fully informed and

<sup>1</sup> A repeated line crossed out.

convinced of, nor constitutionally interfere in behalf of the State against any such independent tribe, but on the principle that Congress shall have the sole direction of the war, and the settling of all the terms of peace with such Indian tribe. Whereupon the Committee suggest the following resolutions. *Resolved*, that it be, and it hereby is earnestly recommended to the States of North Carolina and Georgia, respectively to make liberal cessions of territory to the United States, for their common benefit, to be governed and disposed of in the same manner as the territory of the United States, north west of the river Ohio is, and shall be governed and disposed of. *Resolved*, That it be recommended to the State of Georgia to use all possible means to preserve peace and friendship between the citizens of that State and the upper and lower Creek Indians, consistent with the principles of the confederation. *Resolved*, That Congress esteem it their duty to consider the causes and circumstances of any dispute or hostile proceedings between any State, or the citizens thereof, and any Indian tribe or tribes of Indians within the limits of the United States, not members of any of the States, and that Congress is bound to employ the forces of the Union to punish any such tribe or tribes, which shall make unjust and unprovoked attacks upon any part of the United States. *Resolved* That the Superintendent of Indian Affairs in the southern department be directed without delay to inform the Creeks and Cherokees, that Congress are pursuing measures for settling all disputes about the lands claimed by them and the white people. that he be directed to inform the Indians in his department, that Congress is always disposed to hear their complaints, which must be made through the Superintendent, to redress their grievances, and to preserve peace and lasting friendship with them; and that he be directed to report the measures that have been adopted for supplying those Indians with merchandize.



On the question to postpone for the purpose abovementioned, the yeas and nays being required Mr [William] Few

<i>Massachussetts</i>			<i>Virginia</i>	
M <sup>r</sup> Holten	ay	}ay	M <sup>r</sup> Grayson	no
M <sup>r</sup> Dane	ay		M <sup>r</sup> Lee	ay
<i>Rhode Island</i>			M <sup>r</sup> Carrington	no
M <sup>r</sup> Varnum	ay	*	<i>North Carolina</i>	
<i>New York</i>			M <sup>r</sup> Blount	no
M <sup>r</sup> Haring	ay	}ay	M <sup>r</sup> Hawkins	ay
M <sup>r</sup> Yates	ay		<i>South Carolina</i>	
<i>New Jersey</i>			M <sup>r</sup> Kean	ay
M <sup>r</sup> Clark	ay	*	M <sup>r</sup> Huger	ay
<i>Pensylvania</i>			M <sup>r</sup> Butler	no
M <sup>r</sup> S <sup>t</sup> Clair	ay	}ay	<i>Georgia</i>	
M <sup>r</sup> Irvine	ay		M <sup>r</sup> Few	no
M <sup>r</sup> Armstrong	ay			*
<i>Delaware</i>				
M <sup>r</sup> Mitchell	ay	}ay		
M <sup>r</sup> Kearny	ay			

So the question was lost.

[Motion of Mr. Butler on Indian affairs<sup>1</sup>]

*Resolved* That Congress will on Tuesday next proceed to the Appointment of three [two] Commissioners to ~~proceed to the southward to~~ [be associated with the Superintendant of Indian Affairs in the so. department for the purpose of] enquir[ing] into the Causes of the uneasiness subsisting between the Citizens of the state of Georgia and the southern Indians, and ~~that they shall be authorised to Assure the Injured party that Congress will take the most decided measures to do them justice and prevent the like in future~~ [and for adjusting the Boundary line between them the State of Georgia and the s<sup>d</sup> Indians.]

<sup>1</sup> *Papers of the Continental Congress*, No. 55, p. 153, in the writing of Mr. Pierce Butler, with changes in another hand, shown by brackets. This motion was withdrawn.

[Motion of Mr. Dane respecting the Department of Treasury <sup>1</sup>]

Resolve for continuing the department of finance in Commission.

*Resolved* that the board of Treasury consisting of three Commissioners instituted by the ordinance<sup>2</sup> passed May 28, 1784 for putting the Department of finance into Commission, be continued for the term of two years from and after the expiration of the commission now in force in pursuance of the said ordinance.

*Resolved* that three Commissioners shall be appointed by Congress who shall enter on the duties of their office immediately on the expiration of the said Commission now in force, and that the said Commissioners or any two of them shall have authority to exercise all the powers vested in the present Commissioners of the board by the Acts of Congress and the further powers of inspecting and superintending the settlement of public accounts and all subordinate officers concerned therein, of directing the general form in which they shall be stated and rendered and to take efficient measures for recovering all balances due to the United States and all property unjustly withheld from them.

*Ordered* that the board of Treasury report to Congress an ordinance for regulating the Treasury Department of the United States having reference to the resolves passed on            for continuing the department of finance in Commission; and also having regard to any offices which may become unnecessary in the said Department.

[Motion of Mr. Dane for an explanation of the treaty with France<sup>3</sup>]

Whereas by the 11<sup>th</sup> Article of the treaty of Amity and Commerce between his most Christian Majesty and these United States it is agreed "the subjects and Inhabitants of the said States, or any of them, shall not be reputed Aubains in France, and consequently shall

<sup>1</sup> *Papers of the Continental Congress*, No. 36, III, pp. 371-372, in the writing of Mr. Nathan Dane, read August 3, 1787. According to the indorsement and the *Committee Book*, *Papers of the Continental Congress*, No. 190, p. 164, it was referred to a committee consisting of Mr. Nathan Dane, Mr. Abraham Clark, Mr. James Mitchel Varnum, Mr. Richard Henry Lee and Mr. William Grayson. Report rendered August 9 and acted on September 21, 1787. See August 2, 1787.

<sup>2</sup> *Journals*, vol. XXVII, pp. 469-471.

<sup>3</sup> *Papers of the Continental Congress*, No. 36, III, p. 373, in the writing of Mr. Nathan Dane. It was read August 3. According to the indorsement and the *Committee Book*, *Papers of the Continental Congress*, No. 190, p. 164, it was referred to the Secretary for Foreign Affairs to report.

be exempted from the droit d<sup>e</sup> Aubaine, &c. Notwithstanding which Article it appears that the property of a M<sup>r</sup> Wetherid, a Citizen of the said States, who lately died at Au Cayes, has been claimed and taken by the receiver of the Droit d<sup>e</sup> Aubaine in that Island, in consequence of a limited construction of the said article by which the said exemptions are supposed to extend to the Kingdom of France only.

For obtaining, therefore, a true explanation of the said article, and for preventing like inconveniences to the Citizens of these States in future,

*Resolved* that minister of the U. States at the Court of France endeavour to obtain such explanation of the said Article, or such further article or articles, as shall exempt the Citizens of the said States from the Droit d<sup>e</sup> Aubaine, and give them the benefits of the exemptions mentioned in the said Article as well in all his most Christian Majesty's dominions as in his Kingdom of France.

[Report of committee on a public printer<sup>1</sup>]

The committee [consisting of Mr. James Mitchel Varnum, Mr. Benjamin Hawkins and Mr. William Grayson] to whom was referred a Motion from Mr [James Mitchel] Varnum, recommend the following Resolutions

*Resolved* That a printer be employed whose duty it shall be to publish the Journals of Congress and other documents of the United States.

That he also publish a paper on tuesdays and Saturdays weekly, at such place where Congress shall hold their Session, to be denominated "The North American journal, and conclude with "By authority of the United States."

That the North American journal be published under the inspection of the Secretary of Foreign affairs, or such other person or persons as Congress may hereafter direct.

That from this paper be excluded all advertizements not immediately connected with the public interest, and also, whatever may tend to scandal and detraction.

That "the North American journal" only be received at public expence, and that the Treasury board take order for carrying these resolutions into effect.

<sup>1</sup> *Papers of the Continental Congress*, No. 23, pp. 311-312, read August 3, 1787. Assigned for order of the day Tuesday, August 7. See August 2, 1787.

<sup>1</sup> MONDAY, AUGUST 6, 1787.

Five states only attending namely Massachusetts New York Pennsylvania Delaware and Virginia and from Rhode Island M<sup>r</sup> [James Mitchel] Varnum, the president adjourned Congress until tomorrow 11 oclock.

## TUESDAY, AUGUST 7, 1787.

Five states attended as yesterday and from Rhode Island Mr [James Mitchel] Varnum and from South Carolina Mr [John] Kean,

<sup>2</sup> WEDNESDAY, AUGUST 8, 1787.

Six States attended, namely Massachusetts New York, New Jersey, Pennsylvania, Delaware and Virginia and from Rhode Island Mr [James Mitchel] Varnum and from South Carolina Mr [John] Kean.

<sup>1</sup> THURSDAY, AUGUST 9, 1787.

Congress assembled present Massachusetts, New York New Jersey, Pennsylvania, Delaware, Virginia, and South Carolina and from Rhode island Mr [James Mitchel] Varnum.

The delegates of South Carolina having laid before Congress An Act of the legislature of that state empowering the delegates thereof to cede to the United State the claim of the said state to a certain tract of Western territory and the said delegates having presented to Congress a draught of a deed which they were ready to sign in compliance with the said Act provided Congress are willing to accept the said cession, ~~whereupon it was thereupon~~

*Resolved* That Congress are ready to accept the cession of the claim of the State of South Carolina to the tract of

<sup>1</sup> Charles Thomson takes up the entry.

<sup>2</sup> Roger Alden takes up the entry.

Country described in the Act of the said state whenever the delegates will execute a deed conformable to the said Act.

On application from the hon<sup>ble</sup> N Gorham <sup>1</sup> stating that he has a Schooner at Boston called "The Machias, William Cowell Master bound for Mogadore in Morocco and praying for a sea letter for the said Schooner.

*Ordered* That Sea letters in the usual form be granted for the Schooner The Machias William Cowell Master.

A motion <sup>2</sup> having been made by the delegates of South Carolina

That the Convention held and concluded between the Commissioners of the States of South Carolina and Georgia at Beaufort in the State of South Carolina on the 28<sup>th</sup> day of April in the year of Our Lord 1787 in the words following to wit "Convention between the States of South Carolina and Georgia concluded at Beaufort in the State of South Carolina on the twenty eighth day of April in the year of our Lord one thousand seven hundred and eighty seven and in the eleventh year of the Independence of the United States of America. To all to whom these presents shall come the unwritten Charles Cotesworth Pinckney Andrew Pickens and Pierce Butler esquires <sup>3</sup> Commissioners appointed by the State of South Carolina of the one part and the underwritten John Habersham and Lachlan McIntosh Esquires a majority of the commissioners appointed by the State of Georgia of the other part, send Greeting. Whereas the State of South Carolina did heretofore present a petition to the United States in Congress Assembled and did therein set forth that a dis-

<sup>1</sup> The memorial of Gorham is in the *Papers of the Continental Congress*, No. 41, III, p. 554. It is indorsed as read and acted on August 9, 1787.

<sup>2</sup> According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 164, this motion and a convention between the states of South Carolina and Georgia were referred to a committee consisting of Mr. Henry Lee, Mr. John Armstrong and Mr. William Grayson.

<sup>3</sup> Roger Alden takes up the entry.

pute and difference had arisen and subsisted between the States of South Carolina and Georgia, concerning boundaries;<sup>1</sup> the said States claiming respectively the same territories, and that the case and claim of the State of South Carolina was as follows, that is to say, "Charles the second King of Great Britain by charter dated the twenty fourth day of March, in the fifteenth Year of his reign, granted to eight persons therein named, as lords proprietors thereof all the lands lying and being within his dominions of America, between thirty one and thirty six degrees of North Latitude, in a direct west line to the South Seas, stiling the lands so described the province of Carolina. That on the thirtieth day of June in the seventeenth Year of his reign the said King, granted to the said Lords Proprietors a second charter enlarging the bounds of Carolina, viz. from twenty nine degrees of North Latitude, to thirty six degrees thirty minutes, and from those points on the sea coast west, in a direct line to the South Seas. That seven of the said proprietors of Carolina, sold and surrendered to George the second late King of Great Britain, all their title and Interest in the said province; and the share of the remaining proprietor was seperated from the Kings and allotted to him in the north part of North Carolina. that Carolina was afterwards divided into two provinces called North and South Carolina. That by a charter dated the ninth day of June one thousand seven hundred and thirty two, George the second, King of Great Britain granted to certain persons therein named all the lands lying between the rivers Savannah and Alatamaha and between lines to be drawn from the heads of those rivers respectively to the South Sea, and stiled the said Colony Georgia. That by the treaty of peace concluded at Paris on the tenth day of February one thousand seven hundred

<sup>1</sup> See *Journals*, vol. XXVIII, pp. 361, 365, 408; XXX, p. 288; and XXXI, pp. 622-629, 642, 650-654, for previous proceedings with reference to this dispute.

and sixty three, the river Mississippi was declared to be the western boundary of the north American Colonies; that the Governor of South Carolina in the Year one thousand seven hundred and sixty two, conceiving that the lands to the Southward of the Alatomaha, still belonged to South Carolina, granted several tracts of the said lands. That the Government of Georgia complained to the King of Great Britain; respecting those grants, as being for lands within its limits, and thereupon his Majesty by proclamation dated the seventh day of October, one thousand seven hundred and sixty three, annexed to Georgia all the lands lying between the rivers Alatomaha and S<sup>t</sup> Mary, the validity of the grants passed by the Governor of South Carolina as aforesaid, remaining however acknowledged and uncontested, and the grantees of the said land or their representative still holding it as their legal estate. That South Carolina claims the lands lying between the North Carolina line, and the line run due west from the mouth of Tugoloo river to the Mississippi; because as the said State contends the river Savannah loses that name at the confluence of Tugoloo and Keowee Rivers, consequently that spot is the head of Savannah river. The State of Georgia on the other hand contends that the source of Keowee river is to be considered as the head of Savannah River. That the State of South Carolina also claims all the lands lying between a line to be drawn from the head of the River S<sup>t</sup> Mary, the head of Alatomaha, the Mississippi and Florida, being as the said State contends within the limits of its charter, and not annexed to Georgia by the said proclamation of one thousand seven hundred and sixty three. The State of Georgia on the other hand contends that the tract of country last mentioned is a part of that State. The State of South Carolina did therefore by their said petition pray for a hearing and determination of the differences and dispute subsisting as aforesaid between the said State and Georgia,

agreeable to the Articles of confederation and perpetual Union between the United States of America. And whereas the State of Georgia were duly notified of the said Petition, and did by their lawful Agents appear in order to establish their right to the premises in the manner directed by the said Articles of confederation; and proceedings were thereon had in Congress in order to the appointment of Judges to constitute a court for hearing and determining the said matter in question. And whereas it appeared to be the sincere wish and desire of the said States of South Carolina and Georgia that all and singular the differences and claims subsisting between the said States, relative to boundary should be amicably ~~settled~~ adjusted and compromised. And whereas the legislature of the State of South Carolina did elect the above named Charles Cotesworth Pinckney, Andrew Pickens, and Pierce Butler Esquires, Commissioners, and did invest them, or a Majority of them with full and absolute power and Authority, in behalf of that State, to settle and compromise all and singular the differences, controversies, disputes and claims which subsist between the said State and the State of Georgia, relative to boundary and to establish and permanently fix a boundary between the two States. And the said State of South Carolina did declare that it would at all times thereafter ratify and confirm all and whatsoever the said commissioners or a majority of them should do in, and touching the premises, and that the same should be forever binding on the said State of South Carolina. And whereas the Legislature of the State of Georgia did appoint John Houstoun, John Habersham and Lachlan M<sup>c</sup>Intosh Esquires Commissioners and did invest them with full and absolute power and authority in behalf of that State to settle and compromise all and singular the differences, controversies, disputes and claims, which subsist between the said State and the State of South Carolina, relative to boundary and to



establish and permanently fix a boundary between the two States. And the said State of Georgia did also declare that it would at all times thereafter ratify and confirm all and whatsoever the said last mentioned commissioners or a majority of them should do in and touching the premises, and that the same should be forever binding on the said State of Georgia. Now therefore know Ye, that the underwritten Commissioners on the part of the States of South Carolina and Georgia respectively having by mutual consent, assembled at the town of Beaufort in the State of South Carolina, on the twenty fourth day of this present month of April in order to the due execution of their respective trusts, and having reciprocally exchanged and considered their full powers, and declared the same legal and forever binding on both states, and having conferred together on the most effectual means of adjusting the differences subsisting between the two States and of establishing and permanently fixing a boundary between them, have agreed and by these presents for and in behalf of their respective States, do mutually agree to the following Articles, that is to say. Article the first. The most northern branch or stream of the River Savannah from the Sea or Mouth of such stream to the fork or confluence of the Rivers now called Tugoloo and Keowee, and from thence the most northern branch or stream of the said River Tugoloo till it intersects the northern boundary line of South Carolina, if the said branch or stream of Tugoloo extends so far north, reserving all the Islands in the said rivers Savannah and Tugoloo to Georgia; but if the head spring or source of any branch or stream of the said River Tugoloo does not extend to the north boundary line of South Carolina, then a west line to the Mississippi to be drawn from the head spring or source of the said branch or stream of Tugoloo river, which extends to the highest northern latitude, shall forever hereafter form the separation limit and boundary

between the States of South Carolina and Georgia. Article the second. The navigation of the river savannah at and from the bar, and mouth along the north east side of Cockspur Island, and up the direct course of the main northern channel along the northern side of Hutchinson's Island opposite the town of Savannah to the upper end of the said Island, and from thence up the bed or principal stream of the said River, to the confluence of the Rivers Tugoloo and Keowee, and from the confluence up the channel of the most northern stream of Tugoloo river to its source, and back again by the same channel to the Atlantic Ocean, is hereby declared to be henceforth equally free to the citizens of both States, and exempt from all duties, tolls, hinderance, interruption or molestation whatsoever attempted to be enforced by one State on the citizens of the other, and all the rest of the river Savannah to the Southward of the foregoing description is acknowledged to be the exclusive right of the State of Georgia. Article the third. The State of South Carolina shall not<sup>1</sup> hereafter claim any lands to the eastward southward, south eastward or west of the boundary above established, but hereby relinquishes and cedes to the state of Georgia all the right title and claim which the said State of South Carolina hath to the government, sovereignty and jurisdiction in and over the same and also the right of pre-emption of the soil from the native Indians and all other the estate, property and claim which the state of South Carolina hath in or to the said land. Article the Fourth. The State of Georgia shall not hereafter claim any lands to the Northward or North-eastward of the boundary above established, but hereby relinquishes and cedes to the state of South Carolina all the right title and claim which the said State of Georgia hath to the government, sovereignty and jurisdiction in and over the same and also the right of pre-emption of the soil from

<sup>1</sup> Charles Thomson takes up the entry.

the native Indians and all other the estate property and claim which the state of Georgia hath in or to the said lands. Article the Fifth. The Lands heretofore granted by either of the said states between the forks of Tugaloo and Keowee shall be the private property of the first grantees and their respective heirs and assigns and the grantees of any of the said lands under the state of Georgia shall within twelve months from the date hereof cause such grants or authentic copies thereof ratified under the seal of the State of Georgia to be deposited in the Office of the secretary of the state of South Carolina, to the end that the same may be recorded there, and after the same shall have been so recorded, the grantees shall be entitled to receive again from the said secretary their respective grants or the copies thereof, whichever may have been so deposited without any charge or fee of Office whatsoever and every grant which shall not, or of which the copy certified as above mentioned shall not be so deposited shall be adjudged void. Article the sixth. The Commissioners on the part of the State of South Carolina do not by any of the above articles mean to cede, relinquish or weaken the right title and claim of any of the individual citizens of the State of South Carolina to any lands situated in Georgia particularly to the lands situated to the south or southwest of the river Alatamaha and granted during the Administration of Governor Boone in the year one thousand seven hundred and sixty three and they do hereby declare that the right and title of the said citizens to the same is and ought to remain as full strong and effectual as if this Convention had not been made. The Commissioners on the part of the state of Georgia do decline entering into any negociation relative to the lands mentioned in this Article as they conceive they are not authorised so to do by the powers delegated to them. In testimony whereof the said Charles Cotesworth Pinckney Andrew Pickens and Pierce Butlèr for and in

behalf of the State of South Carolina and the said John Habersham, and Lachlan M<sup>c</sup>Intosh for and in behalf of the state of Georgia have to these presents and a duplicate thereof both indented interchangeably set their hands and affix their seals. Done at Beaufort in the state of South Carolina the twenty eighth day of April in the year of our Lord one thousand seven hundred and eighty seven and in the eleventh year of the Independence of the United States of America.

(Signed) CHARLES COTESWORTH (L S) PINCKNEY  
 ANDREW (L S) PICKENS  
 P. (L S) BUTLER  
 JOHN (L S) HABERSHAM  
 LACHLAN (L S) MCINTOSH''

be ratified and confirmed and that the lines and limits therein specified shall be hereafter taken and received as the boundaries between the said states of South Carolina and Georgia for ever.

A motion was made by Mr [Nathan] Dane seconded by Mr [Samuel] Holten that the foregoing motion be committed; and on the question for commitment, the yeas and nays being required by Mr [John] Kean

<i>Massachusetts</i>			<i>Delaware</i>	
Mr Holten	ay	}ay	Mr Kearny	ay
Mr Dane	ay		Mr Mitchell	ay
<i>New York</i>			<i>Virginia</i>	
Mr Haring	ay	}ay	Mr Grayson	ay
Mr Yates	ay		Mr Lee	ay
<i>New Jersey</i>			Mr Carrington	ay
Mr Clarke	ay	}ay	<i>South Carolina</i>	
Mr Schurman	ay		Mr Kean	ay
<i>Pennsylvania</i>			Mr Huger	ay
Mr S <sup>t</sup> Clair	ay	}ay		
Mr Irwine	ay			
Mr Armstrong	ay			

So it was resolved in the affirmative.

The Delegates of In Virtue of the powers in them vested the Delegates of the state of South Carolina for and in behalf of the said State executed the following deed of cession <sup>1</sup> to the United States of America,

<sup>2</sup> To all who shall see these presents, we John Kean, and Daniel Huger the underwritten Delegates for the State of South Carolina in the Congress of the United States, send greeting,

Whereas the General Assembly of the State of South Carolina on the eighth day of March in the Year of our Lord one thousand seven hundred and eighty seven passed an Act in the words following, viz. An Act to authorise the delegates of this State in Congress to convey to the United States in Congress Assembled all the right of this State to the territory herein described.

“Whereas the Congress of the United States did on the sixth day of September in the Year one thousand seven hundred and eighty, recommend to the several States in the Union having claims to western territory to make a liberal cession to the United States of a portion of their respective claims for the common benefit of the Union;<sup>3</sup> And Whereas this State is willing to adopt every measure which can tend to promote the honor and dignity of the United States and strengthen their federal Union: Be it therefore enacted by the honorable the Senate and house of Representatives in General Assembly met and sitting and by the authority of the same, That it shall and may be lawful for the Delegates of this State to the Congress of the United States, or such of them as shall be assembled in Congress, and they are

<sup>1</sup> The original deed of cession on parchment is in *Papers of the Continental Congress*, Cession of Western Lands. The *Journal* entry varies from the original in capitalization and punctuation.

<sup>2</sup> Roger Alden here takes up the entry.

<sup>3</sup> *Journals*, vol. XVII, p. 807.

hereby fully authorised and empowered for and on behalf of this State by proper deeds or instruments in writing, under their hands and seals, to convey transfer, assign and make over unto the United States in Congress Assembled, for the benefit of the said States all right, title and claim, as well of soil as jurisdiction which this State hath to the territory or tract of country within the limits of the Charter of South Carolina, situate lying and being within the boundaries and lines hereinafter described, that is to say, all the territory or tract of country included within the river Mississippi and a line beginning at that part of the said River which is intersected by the southern boundary line of the State of North Carolina, and continuing along the said boundary line, until it intersects the ridge or chain of Mountains which divides the eastern from the western waters, then to be continued along the top of the said ridge of mountains, until it intersects a line to be drawn due west from the head of the southern branch of Tugoloo river to the said Mountains, and thence to run a due west course to the River Mississippi. In the Senate house the eighth day of March, in the Year of our Lord one thousand seven hundred and eighty seven, and in the eleventh Year of the Independence of the United States of America. John Lloyd, President of the Senate. John Julius Pringle, Speaker of the house of Representatives." And whereas the said John Kean, and Daniel Huger were on the sixth day of March, one thousand seven hundred and eighty seven, elected Delegates to represent the State of South Carolina, according to the law of said State in the Congress of the United States until the first Monday in November in the said Year, one thousand seven hundred and eighty seven, which election remains in full force, and the said John Kean and Daniel Huger are the lawful Delegates of said State in the Congress of the United States. Now therefore know Ye, that we the said John Kean and Daniel

Huger by virtue of the power and authority to us committed by the said Act of the General Assembly of South Carolina before recited, in the name and for and in behalf of the State of South Carolina, do by these presents, assign, transfer, quit claim, cede and convey to the United States of America for their benefit, (South Carolina inclusive) all the right, title, interest Jurisdiction, and claim which the State of South Carolina 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 ninth day of August in the Year of our Lord one thousand seven hundred and eighty seven, and of the Sovereignty and Independence of America the twelfth. John Kean (L S) Daniel Huger (L S) signed, sealed and delivered in presence of Charles Thomson, Roger Alden, Benjamin Bankson.

[Report of committee on Indian Affairs <sup>1</sup>]

The Committee, consisting of M<sup>r</sup> [Nathan] Dane, M<sup>r</sup> [Benjamin] Hawkins, M<sup>r</sup> [John] Kean, M<sup>r</sup> [William] Irvine, and M<sup>r</sup> [Edward] Carrington, to whom were referred the report of the Secretary at war, and sundry papers relative to Indian Affairs in the Northern Department, report in part,

That from the papers and evidence before them, it appears, first, that several tribes in the said Department, express much uneasiness about the surveys undertaken North West of the Ohio, and discover

<sup>1</sup> *Papers of the Continental Congress*, No. 27, pp. 341-344, in the writing of Mr. Nathan Dane. It is indorsed as read August 9, 1787 and order of the day for Monday next. Also indorsed by Thomson "This superseded by the appropriation of 20,000 dollars for Ind<sup>a</sup> treaties and the order to Gov<sup>r</sup> of West terr<sup>y</sup> to hold a treaty with Ind if he find it nec<sup>y</sup> 12 and 22 Oct 1787." There is a broadside of this report on page 345. It is indorsed by Alden "one paragraph respecting holding treaties agreed to by amendment. Oct [5,] 1787." The paragraph in question is corrected to read in conformity with the Journal entry of October 5, q.v. On the margin of this paragraph is the notation by Thomson "Agreed to Sept 22", which is apparently an error. This Committee was appointed July 31, 1787. See October 12 and 22, 1787.

a hostile disposition to oppose them, as well as to revenge what they seem to consider unprovoked attacks on some of their people by the frontier settlers. Secondly, that an extensive Confederacy of many of the tribes in that Department, has been formed, with much labor and attention, under the influence of Brant and his adherents, and for purposes not fully disclosed. thirdly that the Indians are dissatisfied with the forms, in which, treaties between them and the United States, have been lately conducted, and fourthly, that the confederated tribes are desirous of treating collectively with the United States.

On these subjects the Committee Observe that treaties have been lately concluded at different times between the United States and many of the said tribes; and that the tribes which possessed the lands North West of the Ohio, now supposed to belong to the United States by purchase, relinquished them for a stipulated consideration. that the Confederated tribes now complain that these lands were not purchased of the Indian Nations, the proper proprietors of them. the Committee conceive that Indians claims, especially to large tracts of hunting grounds, must often be undefined, and interfere with each other. nor do they discover, in the present Case, any evidence, by which it can be determined, what tribes can Justly set up Claims to the lands in question. to discuss these Claims, if possible, must, probably be difficult and expensive; but to quiet them in some form or other appears to the Committee, to be highly expedient, and necessary as a previous measure to the advantageous disposition of the Western lands. the Committee discern but two ways practicable to effect this object, the one is to silence the Indians by making a vigorous war upon them, the other is by holding a general treaty with the tribes which make claims to those lands, and adjusting all disputes about them, holding all former treaties good and valid between the parties to them.

Various circumstances evince that a war, or measures for such a treaty must, ~~in the course of a year or two at furthest~~ [soon] take place. the uneasiness and restless disposition of those tribes appear to be increasing; great pains are taken to excite their Jealousy against the United States, and especially to alarm their fears and to increase enmity towards the settlements near them, whether there are Causes or not for this hostile temper in the Indians, cannot be material; they will be governed by their feelings and what they are induced to believe, and the United States must guard against those disagreeable



events which appear probable. there are the strongest reasons for preferring peace with the Indians to war, especially, in the present situation of public affairs. the Indians appear to act a natural part for men in their situation, they express a concern about their lands and their desire of peace with the United States, in whose power and limits they are, and the Committee are not convinced that a war, under present circumstances, would be consistent with Justice or humanity, but whether so or not, clear it is, that it cannot be consistent with the Interest and policy of the Union. a war with the Confederated tribes must be very expensive, and attended with many evils, however, favourably it may terminate for the United States. it may be followed by connections and events injurious to them, and in any event, ~~probably can any~~ [no] object [can] be obtained by it which may not [probably] be obtained by measures leading to peace and friendship at one hundredth part of the trouble and expence. while the United States can preserve peace with the Indians, within their limits, those Indians may be of real advantage to them. peace therefore, on the most effectual and economical plan, and a regular trade, are clearly the objects to be pursued. the Committee convinced, however, that the forms and measures lately adopted in treating with the Indians are not the most eligible, or at all calculated for effecting the objects in view, but these may easily be changed, and probably, the connections formed among the tribes may be promotive of a better system.

Instead of holding frequent treaties with tribes, separately, which can have no permanent effect upon the temper of the Indians, or tendency to produce a general acquiescence in them to the cessions made of any of their lands, the Committee submit to the consideration of Congress the propriety of promoting general treaties, and collecting the Chiefs of many tribes to the same treaty, where all Interests relative to the same subject may be adjusted. treaties in this case may become less frequent, and less expensive. Instead of lavishing presents upon all kinds of people in the tribes, may it not be eligible to select out carefully the chief and respectable men in them and bestow on them more durable presents, commissions and marks of their rank and distinction; and tools of husbandry upon the more industrious tribes who may be disposed to live by agriculture? instead of a language of superiority and command; may it not be politic and Just to treat with the Indians more on a footing of equality, convince them of the Justice and humanity as well as power of the

United States and of their disposition to promote the happiness of the Indians? and instead of attempting to give lands to the Indians to proceed on the principle of fairly purchasing of them and taking the usual deeds? In conformity to these facts and reasonings the Committee submit the following Resolutions ~~as the ground work of a general treaty~~

*Resolved* that a general treaty be held with the tribes of Indians within the limits of the United States inhabiting the Country North west of the Ohio and About Lake Erie, as soon after the first of April next as conveniently may be and at such place, and at such particular time, as the Commissioners on the part of the United States, ~~and the said tribes~~ shall agree upon, for the purposes of knowing the Causes of uneasiness among the said tribes, and hearing their complaints; of regulating trade and amicably settling all affairs concerning lands and boundaries between them and the United States.

*Resolved* that two Commissioners be appointed, who in conjunction with the Superintendent of the Northern Department, shall be authorised to hold the said treaty, agreeable to such instructions as shall be given them for that purpose.

*Resolved*, that a sum not exceeding                      Dollars, be appropriated for the said treaty, which sum shall include all the objects thereof.

*Resolved*, that the board of Treasury purchase such articles of Indian goods, not exceeding in value                      Dollars, in addition to those now in possession of the Superintendent, as shall, in the opinion of the Commissioners be proper for holding the said treaty.

*Resolved*, that the Secretary at war direct one or two companies of the troops of the United States to receive the orders of the said Commissioners.

*Resolved* that the Superintendent for the Northern Department be directed to communicate to the chiefs of the tribes who joined in the representation to Congress dated the                      day of December last, and to the chiefs of such other tribes, in his Department, as can conveniently be assembled to a general treaty, the contents of the first and second resolves aforesaid, and to inform the said chiefs that Congress have duly considered all they have heard from the Indians and to give all parties time to prepare for a general treaty for settling all affairs, and fully to convince the Indians of the Justice, and sincere friendship, for them of the United States that Congress have proposed to hold the treaty early next Spring, and wish the Indians to meet

their Commissioners accordingly. that he be directed, in discharging the duties of his office, to pay particular attention to the ascertaining who are the true chiefs and most respectable and influential men in the said tribes, and in their principal towns, their names and rank, in order that medals, gorgets, Commissions, and rifles may be presented to them, on proper occasions, according to their distinctions and also what tribes there are to which it may be proper to give tools of husbandry.

[Report of committee respecting treasury department <sup>1</sup>]

The Committee consisting of Mr [Nathan] Dane, Mr [Abraham] Clark, Mr [James Mitchel] Varnum, Mr [Richard Henry] Lee, and Mr [William] Grayson to whom it was referred to consider what officers in the Civil Department are become unnecessary and to whom also was referred a motion of Mr [Nathan] Dane respecting the Department of the Treasury, report the following resolutions.

*Resolved* that the board of Treasury, consisting of three Commissioners, instituted and appointed by and in pursuance of the ordinance of Congress passed May 28<sup>th</sup> 1784 for putting the Department of finance into Commission, with all the powers and duties pertaining to the said board and Commissioners be, and the same are hereby continued to the tenth day of November A. D. 1789.

*Resolved* that the Offices of Comptroller and Auditor, and the Clerkships pertaining thereto, from and after the first day of September next, shall cease and determine, and the powers and duties thereof shall be transferred to the board of Treasury, and after the same period shall vest in, and be exercised and discharged by the said board and by persons appointed by the said board; and the said board, for the despatch of the business thus transferred, shall have authority to employ an accountant ~~and allow him~~ [whose] salary ~~not~~ [shall not] exceeding the rate of 800 Dollars per annum, and not more than two Clerks.

*Resolved* that when the said offices shall cease as aforesaid, that all the books and papers pertaining thereto shall be lodged in the office of the said board of Treasury.

<sup>1</sup> *Papers of the Continental Congress*, No. 26, p. 657, in the writing of Mr. Nathan Dane. It is indorsed as read August 9; order for Monday next. Passed September 21, 1787. The Committee was appointed August 3. A broadside of the report with Mss. changes to make it read as passed, is on p. 659. See August 2, 1787.

*Resolved* that the said accountant and Clerks shall respectively take an oath of fidelity to the United States and the oath of office, and the Commissioners of the said board shall, severally, before the tenth day of November next, renew their bonds given to the United States in pursuance of the resolutions of Congress of February the 3<sup>d</sup> and March 15<sup>th</sup> 1785, or give bonds and security to the United States of the same tenor force and effect as those directed by the said Resolutions for the faithful execution of the trust reposed in them by these resolves or any other Acts of Congress; and shall also take an Oath of fidelity to the United States and the Oath of Office certificates of which shall be filed with the Secretary of Congress.

*Resolved* that not more then two Clerks be employed after the first day of September next and in the Office of the Secretary at war.

[Report of committee on memorial of A. Jameson <sup>1</sup>]

The Committee consisting of [Mr. Edward Carrington, Mr. Dyre Kearny and Mr. James Scheurman] to whom was referred the Memorial of Adam Jameson late deputy Commissary of Issues in the southern Army, report.

That it appears from several certificates accompanying the said Memorial, that the Memorialist conducted himself as deputy Commissary of Issues with integrity and diligence, that when he was about to leave the army he packed up his Books and papers, and deposited them with Major Crump Assistant Deputy Q<sup>r</sup> M<sup>r</sup> to be forwarded to Philadelphia, where he was to have settled his Accounts; that these Books and papers have been lost through the precariousness of the communication which, at that time, existed between the southern Army and that City, and that the measure he took for having the said Books and papers transported, was the only one which could be attempted: It also appears to your Committee that the quantities of provisions attainable in the memorialist's department, were so small that very little loss can have happened through carelessness or misapplication, and therefore the public can be exposed to but little, or no, injury, in a liberal mode of settling his Accounts, whereupon the following Resolution is submitted.

<sup>1</sup> *Papers of the Continental Congress*, No. 19, III pp. 275-276, in the writing of Mr. Edward Carrington. It is indorsed as read August 9, and passed September 28, 1787. The committee was appointed August 2, 1787.

That the Commissioner of Accounts for the Commissaries Department, be authorised and impowered, to settle the accounts of Adam Jameson late Deputy Commissary of Issues, upon the best evidence which, in the nature and circumstances of the case, can be obtained; it appearing to Congress that his Books and papers have been lost and that the same happened through no fault or misconduct of him the said Adam Jameson.

[Report of committee on representation of delegates of Massachusetts and New York <sup>1</sup>]

The committee [consisting of Mr. William Samuel Johnson, Mr. Abraham Clark and Mr. James Mitchel Varnum] to whom was referred the letter of the delegates of Massachusetts and New York, dated the third day of April A D 1787, representing "that the Controversy between the said two States respecting territory having ceased, it is therefore become unnecessary that the Federal court, for the appointment whereof proceedings have been had in Congress, should convene". report.

That the manner in which said controversy has ceased, should be fully represented to congress; And that if any agreement hath been entered into between commissioners of the said States duly authorised for that purpose, the same, or an authenticated transcript thereof, should be filed in the Secretary's office.<sup>2</sup>

<sup>3</sup> FRIDAY, AUGUST 10, 1787.

Six states attended namely

New York New Jersey Pensylvania Delaware Virginia and South Carolina and from Massachusetts M<sup>r</sup> [Nathan] Dane and from Rhode island M<sup>r</sup> [James Mitchel] Varnum.

<sup>1</sup> *Papers of the Continental Congress*, No. 20, I, p. 193. This report was delivered August 6, 1787, when no business was transacted. It was probably read August 9, and is indorsed as superseded by a motion of October 8, 1787. See April 24, 1787.

<sup>2</sup> AUGUST 9, 1787. According to indorsement was read a letter from Beverley Randolph, Governor of Virginia, to the Virginia delegates, dated August 1, respecting Indian affairs and enclosing a copy of a letter from Colonel Joseph Martin to Governor Edmund Randolph, June 28, 1787. *Papers of the Continental Congress*, No. 71, II, pp. 573, 575-578.

<sup>3</sup> Charles Thomson takes up the entry.

**MONDAY, AUGUST 13, 1787.**

Five states attended namely New York Pennsylvania Delaware Virginia and South Carolina and from North Carolina M<sup>r</sup> [John B.] Ashe.

**TUESDAY, AUGUST 14, 1787.**

Three states attended namely New York Pennsylvania and Virginia and from Massachusetts M<sup>r</sup> [Nathan] Dane and South Carolina M<sup>r</sup> [John] Kean.

**WEDNESDAY, AUGUST 15, 1787.**

Two States Attended namely New York and Virginia and from Massachusetts M<sup>r</sup> [Nathan] Dane from Pennsylvania M<sup>r</sup> [Arthur] S<sup>t</sup> Clair from Delaware M<sup>r</sup> [Dyre] Kearny and from South Carolina M<sup>r</sup> [John] Kean.

**THURSDAY, AUGUST 16, 1787.**

The same as yesterday.

**FRIDAY, AUGUST 17, 1787.**

Three states attended namely New York New Jersey and Virginia and from Massachusetts M<sup>r</sup> [Nathan] Dane from Pennsylvania M<sup>r</sup> [Arthur] S<sup>t</sup> Clair and from North Carolina M<sup>r</sup> [John B.] Ash.

**MONDAY, AUGUST 20, 1787.**

Four states attended namely New York New Jersey Delaware and Virginia and from Massachusetts M<sup>r</sup> [Nathan] Dane from Pennsylvania M<sup>r</sup> [William] Irwine and from North Carolina M<sup>r</sup> [John B.] Ashe.

**TUESDAY, AUGUST 21, 1787.**

Four states attended namely New York New Jersey Pennsylvania and Virginia and from Massachusetts M<sup>r</sup>

[Nathan] Dane from Connecticut M<sup>r</sup> [Joseph Platt] Cooke from Delaware M<sup>r</sup> [Nathaniel] Mitchell and from North Carolina M<sup>r</sup> [John B.] Ashe.

WEDNESDAY, AUGUST 22, 1787.

The same as yesterday and from So[uth] Carolina M<sup>r</sup> [Daniel] Huger.

THURSDAY AND FRIDAY, AUGUST 23 AND 24, 1787.

The same as before and from Maryland M<sup>r</sup> [David] Ross.

MONDAY, AUGUST 27, 1787.

Three states attended namely New York Pennsylvania and Virginia and from Massachusetts M<sup>r</sup> [Nathan] Dane from Connecticut M<sup>r</sup> [Joseph Platt] Cooke, from Maryland M<sup>r</sup> [David] Ross and from Georgia M<sup>r</sup> [William] Pierce.

TUESDAY, AUGUST 28, 1787.

The same as yesterday.

WEDNESDAY, AUGUST 29, 1787.

The same as before and from New Jersey M<sup>r</sup> [Abraham] Clark.

THURSDAY, AUGUST 30, 1787.

Five states attended namely New York New Jersey Pennsylvania Delaware and Virginia and from Massachusetts M<sup>r</sup> [Nathan] Dane and from Connecticut M<sup>r</sup> [Joseph Platt] Cook and from Maryland M<sup>r</sup> [David] Ross and from North Carolina M<sup>r</sup> [John B.] Ashe.

FRIDAY, AUGUST 31, 1787.

The same as yesterday.

MONDAY, SEPTEMBER 3, 1787.

Three states attended namely, New York New Jersey and Virginia and from Massachusetts M<sup>r</sup> [Nathan] Dane, from Pennsylvania M<sup>r</sup> [William] Irwine from Maryland M<sup>r</sup> [David] Ross, from North Carolina M<sup>r</sup> [John B.] Ashe and from Georgia M<sup>r</sup> [William] Pierce. And the same met from day to day until

THURSDAY, SEPTEMBER 13, 1787.

Five states attended namely New York Pennsylvania Delaware Virginia and North Carolina and from Massachusetts M<sup>r</sup> [Nathan] Dane from New Jersey M<sup>r</sup> [Abraham] Clarke, from Maryland M<sup>r</sup> [David] Ross and from Georgia M<sup>r</sup> [William] Pierce.

M<sup>r</sup> Robert Burton a delegate for North Carolina attended and took his seat.

[Credentials of Robert Burton, North Carolina <sup>1</sup>]

The State of North Carolina

To the Honorable Robert Burton Esquire Greeting

Whereas the General Assembly at their Session in November and December last, did by Joint Ballot of both Houses elect you the said Robert Burton one of the Delegates of this State to Represent the same in the Congress of the United States of America, for one Year to commence on the first Monday in November next.

We do therefore, by these presents Nominate Constitute and appoint you the said Robert Burton one of the Delegates to represent this State in the Honorable the Congress of the United States of America for one Year, to Commence on the first Monday in November next To hold exercise and enjoy the said appointment with all powers, preheminences, privileges, Authorities and emoluments to the same belonging or in any wise Appertaining.

<sup>1</sup> Original credentials, *Papers of the Continental Congress*, North Carolina Credentials. Copied in *Record of Credentials, Papers of the Continental Congress*, No. 179, I, p. 215. Delivered to Secretary of Congress on May 16, 1787.



Witness Richard Caswell Esquire our Governor Captain-General and Commander in Chief under his hand and our Great Seal at Kinston the fifth day of October in the Year of our Lord One thousand Seven hundred and Eighty six And in the XI Year of our Independence.

[SEAL PENDENT]

R. C. CASWELL

FRIDAY, SEPTEMBER 14, 1787.

Six states attended namely New York Pennsylvania Delaware Virginia North Carolina and South Carolina and from Massachusetts M<sup>r</sup> [Nathan] Dane from New Jersey M<sup>r</sup> [Abraham] Clarke Maryland Mr [David] Ross and from Georgia M<sup>r</sup> [William] Pierce.

THURSDAY, SEPTEMBER 20, 1787.

Congress assembled. Present Massachusetts Connecticut New York New Jersey, Pennsylvania Delaware Virginia North Carolina and Georgia and from Maryland M<sup>r</sup> [David] Ross and from South Carolina M<sup>r</sup> [Daniel] Huger.

[Payment of expenses of the convention <sup>1</sup>]

“In Convention Wed<sup>y</sup> Sep<sup>t</sup> 5<sup>th</sup> 1787 *Resolved*, That the United States in Congress be requested to allow and cause to be paid to the Secretary and other Officers of this Convention such sums in proportion to their respective times of service as are allowed to the Secretary and similar Officers of Congress.

*Ordered* that the Secretary make out and transmit to the treasury Office of the United States an account for the said services and for the incidental expenses of this Convention.

G. WASHINGTON, *Presid<sup>t</sup>*”

<sup>1</sup> These proceedings were entered by Roger Alden in the *Committee Book, Papers of the Continental Congress*, No. 190, p. 165.

Board of Treasury to take Order to settle with and pay the Officers and incidental charges mentioned in the resolution of the Convention, conformable to the recommendation therein contained. <sup>1</sup>

[Report of the Convention of the States <sup>2</sup>]

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the

<sup>1</sup> In a statement of Expenditures of the Civil List from 1st July to the 30th September 1787, signed by Joseph Nourse, Register, there are the following entries for the expenses of the Convention as paid by Congress.

CONGRESS

Sept. 21	William Jackson, esq <sup>r</sup> late Secretary to the Fœderal Convention for his Salary during the sitting thereof agreeably to an Act of Congress of 20 <sup>th</sup> September 1787	
	4 months at 2600 dollars per annum is.....	866. 60
Septem <sup>r</sup> 21	To William Jackson esq <sup>r</sup> Secretary to the Fœderal Convention for the allowance made by Act of Congress of 20 <sup>th</sup> Sept <sup>r</sup> 1787	
	to the door keeper 4 months at 400 dollars per annum.....	133. 30
	to the Messenger 4 months at 300 dollars per annum.....	100. 00
	to the Clerks employed to transcribe and engross... ..	30. 00
Sept. 21	Stationary purchased for the use of the Fœderal Convention paid therefor*.....	36. 00

*Papers of the Continental Congress*, No. 141, I, pp. 246-247.

\*This item apparently included printing, as no separate item for this is found in the accounts.

<sup>2</sup> This report consists of the Constitution, the resolution of the Convention and the letter of Washington to the President of Congress, transmitting the first two documents. According to the *Despatch Book, Papers of the Continental Congress*, No. 185, IV, p. 17, this report was delivered September 20, 1787. According to a letter of William Bingham to Thomas FitzSimons, dated September 21, 1787, the report of the Convention was received and read September 20, 1787 and Wednesday next (September 26) assigned for consideration. The copy of the Constitution and resolution, engrossed on five parchment sheets, which was transmitted to Congress, is preserved in the Shrine in the Library of Congress. The original of Washington's letter, which probably bore Thomson's endorsements, has not been located. Copies of the Convention imprint of the report, printed by Dunlap and Claypoole, are in the Library of Congress. See September 27 and 28, 1787. The text of the Constitution and the resolution of the Convention here printed is taken from the engrossed copy.

Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE. I.

SECTION. 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION. 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

SECTION. 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of Thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

SECTION. 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

SECTION. 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

SECTION. 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time, and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

SECTION. 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their

Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the same shall be a Law, in like manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a Question of Adjournment) shall be presented to the President of the United States; and before the same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

SECTION. 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

SECTION. 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall

Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

SECTION. 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

## ARTICLE. II.

SECTION. 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in



the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President,

declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

SECTION. 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

SECTION. 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of

Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

SECTION. 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

### ARTICLE III.

SECTION. 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

SECTION. 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

SECTION. 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

#### ARTICLE IV.

SECTION. 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

SECTION. 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

SECTION. 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

SECTION. 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect

each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

## ARTICLE. V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

## ARTICLE. VI.

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

## ARTICLE. VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

The Word, "the", being interlined between the seventh and eighth Lines of the first Page, The Word "Thirty" being partly written on an Erasure in the fifteenth Line of the first Page, The Words "is tried" being interlined between the thirty second and thirty third Lines of the first Page and the Word "the" being interlined between the forty third and forty fourth Lines of the second Page.

done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth

In witness whereof

We have hereunto subscribed our Names.

G<sup>o</sup> WASHINGTON *Presid<sup>t</sup>*  
*and deputy from Virginia*

Attest WILLIAM JACKSON  
*Secretary*

*Delaware*

GEO: READ  
GUNNING BEDFORD jun<sup>r</sup>  
JOHN DICKINSON  
RICHARD BASSETT  
JACO: BROOM

*Maryland*

JAMES M<sup>c</sup>HENRY  
DAN of S<sup>t</sup> THO<sup>s</sup> JENIFER  
DAN<sup>l</sup> CARROLL

*Virginia*

JOHN BLAIR  
JAMES MADISON Jr.

*North Carolina*

W<sup>m</sup> BLOUNT  
RICH<sup>d</sup> DOBBS SPAIGHT  
HU WILLIAMSON

*South Carolina*

J. RUTLEDGE  
CHARLES COTESWORTH  
PINCKNEY  
CHARLES PINCKNEY  
PIERCE BUTLER

*Georgia*

WILLIAM FEW  
ABR BALDWIN

*New Hampshire*

JOHN LANGDON  
NICHOLAS GILMAN

*Massachusetts*

NATHANIEL GORHAM  
RUFUS KING

*Connecticut*

W<sup>m</sup> SAM<sup>l</sup> JOHNSON  
ROGER SHERMAN

*New York*

ALEXANDER HAMILTON

*New Jersey*

WIL: LIVINGSTON  
DAVID BREARLEY  
W<sup>m</sup>. PATERSON  
JONA: DAYTON

*Pensylvania*

B FRANKLIN  
THOMAS MIFFLIN  
ROB<sup>t</sup> MORRIS  
GEO. CLYMER  
THO<sup>s</sup> FITZSIMONS  
JARED INGERSOLL  
JAMES WILSON  
GOUV. MORRIS

In Convention Monday September 17<sup>th</sup> 1787.

Present The States of New Hampshire, Massachusetts, Connecticut, M<sup>r</sup> Hamilton from New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

*Resolved*, That the preceding Constitution be laid before the United States in Congress assembled, and that it is the Opinion of this Convention, that it should afterwards be submitted to a Convention of Delegates, chosen in each State by the People thereof, under the Recommendation of its Legislature, for their Assent and Ratification; and that each Convention assenting to, and ratifying the Same, should give Notice thereof to the United States in Congress assembled.

*Resolved*, That it is the Opinion of this Convention, that as soon as the Conventions of nine States shall have ratified this Constitution, the United States in Congress assembled should fix a Day on which the Electors should be appointed by the States which shall have ratified the same, and a Day on which the Electors should assemble to vote for the President, and the Time and Place for commencing Proceedings under this Constitution. That after such Publication the Electors should be appointed, and the Senators and Representatives elected: That the Electors should meet on the Day fixed for the Election of the President, and should transmit their Votes certified, signed, sealed and directed, as the Constitution requires, to the Secretary of the United States in Congress assembled, that the Senators and Representatives should convene at the Time and Place assigned; that the Senators should appoint a President of the Senate, for the sole Purpose of receiving, opening and counting the Votes for President; and, that after he shall be chosen, the Congress, together with the President, should, without Delay, proceed to execute this Constitution.

By the Unanimous Order of the Convention

G<sup>o</sup> WASHINGTON *Presid<sup>t</sup>*

W. JACKSON *Secretary*.

In Convention, September 17<sup>th</sup> 1787.<sup>1</sup>

SIR. We have now the honor to submit to the consideration of the United States in Congress Assembled, that Constitution which has appeared to us the most adviseable.

The friends of our Country have long seen and desired, that the power of making war, peace and treaties, that of levying money and regulating commerce, and the correspondent executive and judicial authorities should be fully and effectually vested in the general government of the Union: but the impropriety of delegating such extensive trust to one body of men is evident. Hence results the necessity of a different organization.

It is obviously impracticable in the fœderal government of these States, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all. Individuals entering into society, must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which may be reserved; and on the present occasion this difficulty was increased by a difference among the several States as to their situation, extent, habits, and particular interests.

In all our deliberations on this subject we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in the Convention to be less rigid on points of inferior magnitude, than might have been otherwise expected; and thus the Constitution, which we now present, is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable.

That it will meet the full and entire approbation of every State is not perhaps to be expected, but each will doubtless consider, that had her interests been alone consulted, the consequences might have been particularly disagreeable or injurious to others; that it is as liable to

<sup>1</sup> *Ratifications of the Constitution*, pp. 71-73, in the writing of Benjamin Bankson. The text of Washington's letter as it appears in this volume is here printed.



as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish

With great respect

We have the honor to be

Sir

Your Excellency's

Most Obedient and humble serv<sup>ts</sup>

GEORGE WASHINGTON, *President.*

By Unanimous Order of the Convention.

His Excellency

THE PRESIDENT OF CONGRESS.

[Letter of Secretary at War on Indian Affairs<sup>1</sup>]

WAR OFFICE *September 3<sup>d</sup> 1787.*

SIR: I have the honor to transmit to your Excellency an extract of a letter from Major Doughty commanding at the Muskingum.

The soldiers and officers on the frontiers have constantly worn their uniform and have not until this instance suffered any injury. The small detachments of troops which accompanied the surveyors during the last and the present year were peculiarly exposed to the depredations of the savages had they been so disposed.

But the murder which Major Doughty relates, and the circumstance of the scalp being carried through the Wyandot towns imply strongly a change of conduct on the part of the savages with respect to the troops of the United States. If this should be the case, it will most probably be fully proved in the course of the expedition to S<sup>t</sup> Vincents.

It appears by a letter from Brigadier General Harmar to the paymaster of his regiment now in this city that he had not moved from the Rapids of the Ohio on the 5<sup>th</sup> of July but that he should move forward the moment a detachment for which he was waiting arrived.

I have the honor to be, etc.,

H KNOX

His Excellency

THE PRESIDENT OF CONGRESS

<sup>1</sup> *Papers of the Continental Congress*, No. 150, II, pp. 377-378, read September 20, 1787. The extract from Major John Doughty's letter, July 22, 1787, is on p. 373.

[Letter of Secretary at War on Indian affairs<sup>1</sup>]

WAR OFFICE, *September 14<sup>th</sup> 1787.*

SIR: I have the honor to transmit to Congress, extracts from a letter just received from the Superintendent of Indian Affairs for the Northern department, dated at Carlisle the 26<sup>th</sup> of August.

Notwithstanding the ill health of this officer, he would have repaired to the treaty directed by Congress to be held at post Vincennes, had it not been supposed that his services might be more immediately necessary with the indians inhabiting the country about Lake Erie.

The Superintendent having stated to me, that on the frequent applications of the indian chiefs for powder and lead, that he was constrained to give high prices for these articles, and therefore requested an order to draw them occasionally from the public stores. Although I conceived such an order might be improper, yet, as the object was to save expence in the public disbursements, I have given orders that he should be furnished with two barrels of powder, and five hundred weight of lead. His receipt for these articles will be transmitted to the treasury department, that his accounts may be charged therewith.

In a letter received from James Livingston Esquire, deputy to the Superintendent of the Northern district, dated Johnstown the 30<sup>th</sup> of August, he informs me, that, he shall soon hold a treaty with the five nations. Being uninformed of the objects of such a treaty, and apprehensive of the expence which would unavoidably arise on the occasion, I wrote him a letter of which the enclosed is a copy.

It is with great respect, that I suggest the importance of general instructions being issued, by the authority of Congress, to point out, and to govern the conduct of the Superintendants of indian Affairs.

I also transmit a letter received from James Farlie Esq<sup>r</sup>, dated at Albany Sept<sup>r</sup> 7<sup>th</sup> 1787, containing a report of the intended designs of Brant. But, the information from Fort Pitt, as communicated by the Superintendent, has a very different complexion. The messages of the Delawares and Wyandots, and the intended visit of the Senecas to Venango, may be regarded as better evidence of the dispositions of the Indians, than the report from Niagara.

I have the honor to be, etc.,

H KNOX

His Excellency

THE PRESIDENT OF CONGRESS.

<sup>1</sup> *Papers of the Continental Congress*, No. 150, II, pp. 469-470, read September 20, 1787. The enclosures mentioned are on pp. 457-466.

[Letter of Secretary at War regarding troops in Western territory <sup>1</sup>]

WAR OFFICE, *September 17<sup>th</sup> 1787*

SIR: I have the honor to transmit to your Excellency copies of two letters and a variety of papers from Brigadier General Harmar. One of the letters is dated at the Rapids of the Ohio on the 7<sup>th</sup> July and the other at Post Vincennes the 7<sup>th</sup> August.

Although the movement of the troops up the Wabash was in consequence of the resolve of Congress of the 24<sup>th</sup> April it may be presumed that it will also happily effect the objects intended by the resolves of Congress of the 24<sup>th</sup> July.

Brigadier General Harmar lost no time in the execution of his orders. His military arrangements and the œconomy of his supplies reflect honor on his conduct.

Although the movement by water was directed if practicable, on account of the difference of expence, yet as its propriety depended on circumstances not to be ascertained here, the mode operating by land or water was necessarily confided to the judgement of the commanding officer.

The great expence of Packhorses is entirely saved in consequence of the movement being performed by water. And as the boats were previously in possession of the troops being necessary to their situation in garrison little more expence has been incurred in this expedition than the additional price of the rations.

Brigadier General Harmar's force at Post Vincennes consists of about three hundred non-commissioned officers and privates.

I have the honor to be, etc.,

H KNOX

His Excellency

THE PRESIDENT OF CONGRESS.

<sup>1</sup> *Papers of the Continental Congress*, No. 150, II, pp. 513-514, read September 20, 1787. Copies of the letters and papers enclosed are on pp. 473-510. See September 21, 1787.

[Letter of Secretary for Foreign Affairs transmitting correspondence <sup>1</sup>]

OFFICE FOR FOREIGN AFFAIRS

17<sup>th</sup> August 1787

SIR: I have the Honor of transmitting to your Excellency herewith enclosed, a Letter of the 4<sup>th</sup> May last from M<sup>r</sup> Jefferson,<sup>2</sup> one of the 5<sup>th</sup> Instant from M<sup>r</sup> Lamb <sup>3</sup> announcing his Arrival at Boston, and another, from Sir John Temple <sup>4</sup> of the 16<sup>th</sup> Instant.

With great Respect, etc.,

JOHN JAY.

His Excellency

THE PRESIDENT OF CONGRESS.

[Letter of Secretary for Foreign Affairs transmitting letter and loan contract <sup>5</sup>]

OFFICE FOR FOREIGN AFFAIRS

30<sup>th</sup> Aug<sup>t</sup> 1787.

SIR: I have the Honor to transmit to your Excellency herewith enclosed, a Letter <sup>6</sup> from M<sup>r</sup> Adams of the 16<sup>th</sup> June last, together with the Contract that accompanied it; and am

With great Respect, etc.,

JOHN JAY.

His Excellency

THE PRESIDENT OF CONGRESS.

<sup>1</sup> *Papers of the Continental Congress*, No. 80, III, p. 297, read September 20, 1787.

<sup>2</sup> A copy is in *Papers of the Continental Congress*, No. 107, II, pp. 5-16. It deals with delay of Congress in replying to the King's letter, French finances, American commerce at Marseilles, Algerines, Lombardy rice, information from Brazil, Mexico and Peru, duties on fish and medal for General Gates.

<sup>3</sup> *Papers of the Continental Congress*, No. 91, II, p. 539, read September 20, 1787. It explains Lamb's delay.

<sup>4</sup> *Papers of the Continental Congress*, No. 92, p. 516, read September 20, 1787. It refers to duties on teas and silks imported by Temple. See September 21, 1787.

<sup>5</sup> *Papers of the Continental Congress*, No. 80, III, p. 301, read September 20, 1787.

<sup>6</sup> *Papers of the Continental Congress*, No. 84, VI, pp. 501-502, read September 20, 1787. A translation from Dutch into English of the bond or contract of June 1, 1787, for one million guilders, issued by Adams in favor of Dutch money lenders, is in *Papers of the Continental Congress*, No. 145, pp. 271-295. See September 28 and October 11, 1787.

[Letters of Secretary for Foreign Affairs transmitting correspondence]

OFFICE FOR FOREIGN AFFAIRS

31. August 1787<sup>1</sup>

SIR: I have the Honor of transmitting to your Excellency herewith enclosed a Letter <sup>2</sup> from M<sup>r</sup> Gardoqui of 28<sup>th</sup> Instant, together with a Translation of it, and the Charleston Gazette which accompanied it, and am

With great Respect, etc.,

JOHN JAY.

His Excellency

THE PRESIDENT OF CONGRESS.

OFFICE FOR FOREIGN AFFAIRS

7<sup>th</sup> Sept. 1787<sup>3</sup>

SIR: I have the Honor to transmit to your Excellency herewith enclosed a Letter <sup>4</sup> from the Honorable M<sup>r</sup> Jefferson of 21<sup>st</sup> June last, together with the Papers mentioned in it and Translations of them; and am

With great Esteem, etc.,

JOHN JAY.

His Excellency

THE PRESIDENT OF CONGRESS.

<sup>1</sup> *Papers of the Continental Congress*, No. 80, III, p. 305, read September 20, 1787.

<sup>2</sup> *Papers of the Continental Congress*, No. 97, pp. 194-197, with translation, pp. 198-199, read September 20, 1787. A copy of the *Columbian Herald*, August 6, 1787, is at p. 200. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 165, this letter was referred to the Secretary of Foreign Affairs to report. Report rendered October 4, 1787.

<sup>3</sup> *Papers of the Continental Congress*, No. 80, III, p. 309, read September 20, 1787. See September 21, 1787.

<sup>4</sup> A copy is in *Papers of the Continental Congress*, No. 107, II, pp. 16-26, with the several enclosures on pp. 26-39. It deals with American commerce in France, military stores at Nantes, fish oils, the Assembly of Notables, European situation, Eden, Ambassador to Madrid, arrest of Barclay, letter of d'Oigney, claims against South Carolina, and letter of Lamb.

## OFFICE FOR FOREIGN AFFAIRS

9 Aug<sup>t</sup> 1787<sup>1</sup>

SIR: I have the Honor of transmitting to your Excellency herewith enclosed a Letter of the 31<sup>st</sup> of Dec<sup>r</sup> last from M<sup>r</sup> Shaw, the american consul at Canton, and am

With great Respect, etc.,

JOHN JAY.<sup>2</sup>

His Excellency  
THE PRESID<sup>t</sup> OF CONGRESS.

<sup>1</sup> *Papers of the Continental Congress*, No. 80, III, p. 293, read September 20, 1787. According to the *Despatch Book, Papers of the Continental Congress*, No. 185, IV, p. 17, Shaw's letter gave an account of the China trade.

<sup>2</sup> SEPTEMBER 20, 1787. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 165, the following committee was appointed:

Mr. Richard Henry Lee, Mr. William Grayson and Mr. William Few on a memorial of Nathaniel Twining, praying for relief in connection with losses incurred in his mail contract. *Papers of the Continental Congress*, No. 41, X, pp. 259-262, read September 20, and acted on September 25 and 26, 1787. There is another unsigned memorial of Twining with reference to his contract in *Papers of the Continental Congress*, No. 41, X, pp. 255-256. It is endorsed by Thomson as read November 2, 1787 and referred to the Postmaster General to report. No business was transacted on this date and no other information regarding this memorial appears.

According to indorsement the following letters and petitions were read:

Letter of Governor John Hancock, Massachusetts, to Arthur St. Clair, August 11, 1787, with reference to the landing of foreigners in the State. *Papers of the Continental Congress*, No. 65, II, p. 361, with attested copies of five depositions enclosed, on pp. 365, 367-369, 371, 373 and 375-376. See September 21, 1787.

Letter of Governor John Sullivan, New Hampshire, to President of Congress, August 27, 1787, giving explanation of absence of delegates from Congress, in reply to the President's circular letter of August 13. *Papers of the Continental Congress*, No. 64, pp. 336-337. The circular letter is in *Papers of the Continental Congress*, No. 16, pp. 326-328.

Letter of Governor John Sullivan, to Charles Thomson, August 27, 1787, stating that delegates are not in Congress because they are attending the Convention. *Papers of the Continental Congress*, No. 64, p. 340.

Letter of Governor John Collins, Rhode Island, to [President of Congress], September 4, 1787, stating steps taken with respect to circular letter of August 13, 1787. *Papers of the Continental Congress*, No. 64, p. 584.

Letter of Governor Samuel Huntington, Connecticut, to President of Congress, September 5, 1787, in reply to circular letter of August 13, 1787, regrets that he has been unable to keep State represented in Congress. *Papers of the Continental Congress*, No. 66, II, p. 370.

## FRIDAY, SEPTEMBER 21, 1787.

Congress assembled present as yesterday.

On the report <sup>1</sup> of a committee consisting of M<sup>r</sup> [Nathan] Dane M<sup>r</sup> [Abraham] Clark M<sup>r</sup> [James Mitchel] Varnum M<sup>r</sup> R[ichard] H[enry] Lee and M<sup>r</sup> [William] Grayson to whom it was referred to consider what officers in the civil department are become unnecessary and to whom was also referred a motion <sup>2</sup> of M<sup>r</sup> [Nathan] Dane,

*Resolved* Unanimously that Samuel Osgood, Walter Livingston and Arthur Lee, Commissioners of the board of treasury appointed in pursuance of the Ordinance <sup>3</sup> of Congress passed May 28, 1784 for putting the department of finance into commission with all the powers and duties appertaining to the said board and commissioners be and the same are hereby continued to the tenth day of November 1789.

Letter of Governor Samuel Huntington to Charles Thomson, September 6, 1787, expects State to be represented soon in Congress. *Papers of the Continental Congress*, No. 66, II, p. 374.

Petition of William Blodget, August 22, 1787, praying for benefits of commutation for services rendered. *Papers of the Continental Congress*, No. 42, I, pp. 413-414, with his original commission as second lieutenant on p. 417. See September 21, 1787.

Petition of Val and Pat French and nephew, in reference to a debt due them from Thomas Barclay, who was released from imprisonment by the French courts on account of his diplomatic status. *Papers of the Continental Congress*, No. 42, III, pp. 153-155, with a printed copy in French of the court order releasing Barclay on pp. 157-160. See September 21 and 26, 1787.

Petition of John C. Symmes, August 29, 1787, praying for a grant of land in the Western territory on terms similar to the grants of July 23 and 27, 1787, to Sargent and Cutler. *Papers of the Continental Congress*, No. 42, VII, p. 295. See September 21 and October 2, 1787.

According to the *Despatch Book*, *Papers of the Continental Congress*, No. 185, IV, p. 17, the following communications were delivered to Congress:

Petition of Westchester farmers asking compensation for damages.

Memorial of Capt. G. Cunningham praying for a settlement of his accounts.

<sup>1</sup> See August 9, 1787, for the original report. The amended report, as passed, is recorded on a broadside of the original, *Papers of the Continental Congress*, No. 26, p. 659. See also August 2, 1787.

<sup>2</sup> See August 3, 1787.

<sup>3</sup> *Journals*, vol. XXVII, pp. 469-471.

*Resolved* That the Offices of the comptroller and Auditor and the clerkships pertaining thereto from and after the first day of November next shall cease and determine And the powers and duties thereof shall be transferred to the board of treasury and after the same period shall vest in and be exercised and discharged by the said board and by persons appointed by the said board; and the said Board for the dispatch of the business thus transferred shall have authority to employ an Accountant, whose salary shall not exceed the rate of eight hundred dollars per annum and not more than two clerks.

*Resolved* That when the said Offices shall cease as aforesaid, that all the books and papers pertaining thereto shall be lodged in the Office of the board of treasury and that all the returns directed to be made to the said comptroller and auditor shall after the said first day of November be made to the said board.

*Resolved* That the said accountant and clerks shall respectively take an oath of fidelity to the United States and the oath of Office. And the commissioners of the said board shall severally before the tenth day of November next renew their bonds given to the United States in pursuance of the resolutions<sup>1</sup> of Congress of February the 3<sup>d</sup> and March the 15<sup>th</sup> 1785, or give bonds and security to the United States, of the same tenor force and effect, as those directed by the said resolutions, for the faithful execution of the trust reposed in them by these resolves, or any other Acts of Congress; and shall also take an Oath of fidelity to the United States and the Oath of Office, certificates of which shall be filed with the Secretary of Congress.

<sup>1</sup> *Journals*, vol. XXVIII, pp. 38 and 158-159, respectively.

<sup>2</sup> Roger Alden resumes the entry.



[Motion of Mr. David Ross on expenses for Indian chiefs <sup>1</sup>]

Whereas M<sup>r</sup> Thomas Harwood Continental loan Officer for the state of Maryland Did, on the 14<sup>th</sup> of June last at the instance of the governor and Council of the said state, advance to captain John Woods one hundred dollars to enable him to proceed with two indian chiefs on their way to Congress, the board of treasury be directed to give the said loan Officer credit for the same and issue a warrant for that purpose.

[Reports of Secretary of Congress on sundry letters and petitions <sup>2</sup>]

OFFICE OF SEC<sup>y</sup> OF CONGRESS

Sept 21 1787

On the letter of 11 Aug 1787 from his Ex<sup>y</sup> governor Hancock stating that a number of persons some probably convicts and all of them people whose manners and conduct will be detrimental to the state have been set on shore in the eastern part of the Commonwealth of Massachusetts from a brig bound from Ireland to Baltimore

The Sec<sup>y</sup> of Congress report

That the letter of 11 Aug from his Ex<sup>y</sup> gov<sup>r</sup> Hancock with the papers accompanying it be referred to the Secy for foreign Affairs to report.<sup>3</sup>

On a Petition from P. French and nephew stating his arrest of M<sup>r</sup> T. Barclay, remonstrating against the Arret of parliament which discharged him and praying for leave to proceed against him

Sec<sup>y</sup> Sec<sup>y</sup> of Congress reports

That the pe[tition] from P. French and Nephew be referred to the Sec<sup>y</sup> for foreign Affairs to report,<sup>4</sup> also the letter <sup>5</sup> of 21 June from the hon<sup>b</sup><sup>le</sup> Tho<sup>s</sup> Jefferson so far as relates to this subject and to the proposed convention between the post Offices of the United States and france, and the claim of individuals against the State of South Carolina for serving on board the ship Indien Capt Gillon.

<sup>1</sup> This motion was entered by Thomson in the *Committee Book, Papers of the Continental Congress*, No. 190, p. 166. It was referred to the Board of Treasury to take order.

<sup>2</sup> *Reports of Secretary of Congress, Papers of the Continental Congress*, No. 180, pp. 60-61. According to the *Committee Book, Papers of the Continental Congress*, No. 190, pp. 165-166, all the letters and petitions were referred in accordance with the indications of the Secretary.

<sup>3</sup> Report rendered September 28, 1787. See September 20, 1787.

<sup>4</sup> Report rendered September 26. See September 20, 1787.

<sup>5</sup> See September 20, 1787.

On the petition of W<sup>m</sup> Blodget late Aid de camp to gen<sup>l</sup> Greene praying for the benefit of Commutation and the petition of Michael Henderson claiming lands

The Sec<sup>y</sup> of Congress reports

That the petition of W<sup>m</sup> Blodget <sup>1</sup> and the petition of Michael Henderson <sup>2</sup> be referred to the Commissioner of Army Accounts to report.

On the petition of sundry West Chester farmers stating damages they have suffered and praying for a settlement and compensation

The Sec<sup>y</sup> reports

That the petition of the West Chester farmers <sup>3</sup> be referred to the board of treasury to report.

On the petition of M<sup>r</sup> John Cleves Symmes praying that Congress will be pleased to order a contract to be made with him for a certain tract of western territory on similar terms with that made with Sergeant Cutler and others

The Sec<sup>y</sup> of Congress reports

That the petition of John Cleves Symmes be referred to a com<sup>ee</sup>.<sup>4</sup>

On the petition of Capt G Cunningham touching the settlement of his Acco<sup>ts</sup>

The Sec<sup>y</sup> of Congress reports

That the petition of capt Gustavus Cunningham <sup>5</sup> be referred to the board of treasury to report.

<sup>1</sup> Report rendered September 27. See September 20, 1787.

<sup>2</sup> *Papers of the Continental Congress*, No. 42, III, pp. 578-579, read September 21, 1787. Report rendered September 27, 1787.

<sup>3</sup> According to the *Despatch Book, Papers of the Continental Congress*, No. 185, IV, p. 17, this petition of Cornelius Oakly and others was received September 20, 1787.

<sup>4</sup> According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 166, the committee consisted of Mr. Nathan Dane, Mr. William Grayson, Mr. Abraham Clark, Mr. Melancton Smith, and Mr. William Samuel Johnson, which reported October 2, 1787. See September 20, 1787.

<sup>5</sup> According to the *Despatch Book, Papers of the Continental Congress*, No. 185, IV, p. 17, this petition was delivered September 20, 1787.

[Letter of Postmaster General regarding education of White Eyes <sup>1</sup>]

August 10<sup>th</sup> 1787.

SIR: Some Time ago I called on the Board of Treasury with a former Acco<sup>t</sup> of Col. Morgan's for the Maintenance and Education of White Eyes, and they informed me that the Resolution of Congress, authorising that Expence, had long since expired, and of Course the Acco<sup>t</sup> could not be paid. When I waited upon them yesterday, as your Excellency desired, they repeated the Information, and referred me to the Comptroller's Office for Particulars. I went there, but the Clerk could not then lay his hand on the Papers relating to that particular Business. I apprehend the fact is, that as the time fixed for the Maintenance of White Eyes, by the Act of Congress, has expired, without any subsequent Act being passed, the Comptroller does not think himself justifiable in giving a Certificate for, nor the Commissioners of the Treasury in paying, any more Money on that Account; while, at the same Time Col. Morgan does not conceive himself at Liberty to send White Eyes home, without the Orders of Congress for that Purpose.

I have the Honor to be, etc.,

EBEN HAZARD <sup>2</sup>

<sup>1</sup> *Papers of the Continental Congress*, No. 61, p. 311, read September 21, 1787. A letter of Col. G. Morgan, August 6, 1787, on this same subject, is copied by Thomson in the *Committee Book, Papers of the Continental Congress*, No. 190, p. 167, where it is stated that it was referred to the Board of Treasury to take order.

<sup>2</sup> SEPTEMBER 21, 1787. According to the *Committee Book, Papers of the Continental Congress*, No. 190, pp. 165-166, the following were referred:

Letter of Col. Josiah Harmar to H. Knox, July 7, 1787, so far as it relates to contractors and contract for provisions. Referred to the Board of Treasury to report. See September 20, 1787 and May 23, 1788.

Letter of T. Jefferson to J. Jay, June 21, 1787, so far as it relates to the case of T. Barclay, the convention touching American and French post offices and claims of individuals on South Carolina. Referred to the Secretary for Foreign Affairs to report. See September 20, 1787.

Letter of Governor Hancock, August 11, 1787. Referred to the Secretary for Foreign Affairs to report. Report rendered September 28, 1787 (the *Committee Book* erroneously says October 1). See September 20, 1787.

Letter of J. Temple, August 16, 1787. Referred to the Secretary for Foreign Affairs to Report. Report rendered September 26. See September 20, 1787.

Memorial of Beriah Norton, September 15, 1787, read September 21, respecting the claim he is prosecuting against the treasury of Great Britain. *Papers of the Continental Congress*, No. 41, VII, p. 134. Referred to the Secretary for Foreign Affairs to report. Report rendered September 26, 1787.

<sup>1</sup> SATURDAY, SEPTEMBER 22, 1787.

Congress assembled. Present Massachusetts, Connecticut, New York New Jersey, Pennsylvania Delaware Virginia North Carolina South Carolina and Georgia and from Maryland M<sup>r</sup> [David] Ross.<sup>2</sup>

## MONDAY, SEPTEMBER 24, 1787.

Congress assembled present as before.

On a letter <sup>3</sup> of the 22 from the board of treasury stating that in the sales which they have made of lands in the western territory a declaration had been made by them

According to the *Despatch Book, Papers of the Continental Congress*, No. 185, IV, p. 18, the following petition was received:

Petition of Andrew M<sup>r</sup>Farlan praying for one year's pay as a deranged officer.

<sup>1</sup> Charles Thomson takes up the entry.

<sup>2</sup> SEPTEMBER 22, 1787. According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 167, the following committee was appointed:

Mr. Melancton Smith, Mr. Nathan Dane and Mr. John Kean on a letter of J. M. Pintard, August 18, 1787, read September 22, for sea letters. *Papers of the Continental Congress*, No. 120, III, pp. 270-271, which is in the Department of State. Report rendered September 24, 1787.

According to indorsement the following were read:

Report of the committee of September 20, 1787 on the memorial of Nathaniel Twining. *Papers of the Continental Congress*, No. 19, VI, pp. 101-102. This report, with verbal changes which do not affect the meaning, is entered in the *Journal* on September 25, 1787. See also September 26 and October 2, 1787.

Letter of George Mathews, governor of Georgia to [the Georgia delegates], August 9, 1787. *Papers of the Continental Congress*, No. 73, pp. 345-347, with enclosures of two talks of the Lower Creeks with answers on pp. 349-362.

Memorial of four surveyors, Absalom Martin, James Simpson, Israel Ludlow and Charles Smith, September 22, 1787, praying for reimbursement for expenses. *Papers of the Continental Congress*, No. 41, IX, p. 461. According to indorsement and the *Committee Book* this memorial was referred to the Board of Treasury to report. Report rendered October 2. See October 3, 1787.

Also according to the *Committee Book*, a letter of John Paul Jones to [Charles Thomson], August 8, 1787, requesting copies of documents, was referred to the Secretary of Congress and the Secretary for Foreign Affairs to take order. The letter was copied in the *Committee Book* by Roger Alden.

<sup>3</sup> *Papers of the Continental Congress*, No. 140, II, p. 459, signed by the three members of the Board.

previous to the sale that the interest on the securities to be received in payment was not to be computed and requesting to be favoured with the sense of Congress whether in payment of purchases made under the Ordinance<sup>1</sup> of the 20 May 1785 interest should be computed on the principal of the securities and received in payment on the same terms with the principal.

*Resolved* That Congress approve of the Declaration made by the board of treasury at the time of selling the public lands, that the interest on the securities to be received in payment should not be computed; and direct them to proceed in the same manner in future sales, issuing certificates or indents of interest for the interest due on the certificates paid conformably to the authority given them for the sale of the lands between the seventh range of townships and the Scioto on the 23 day of July last.

On passing the foregoing resolution a division was called for and on the question to agree to the first clause as far as "computed" inclusive the yeas and nays being required by M<sup>r</sup> [Dyre] Kearny

<sup>1</sup> *Journals*, vol. XXVIII, pp. 375-381.

<i>Massachusetts</i>			<i>Delaware</i>	
M <sup>r</sup> Gorham	ay	}	M <sup>r</sup> Kearny	no
M <sup>r</sup> King	ay		M <sup>r</sup> Mitchell	no
M <sup>r</sup> Dane	ay			
<i>Connecticut</i>			<i>Maryland</i>	
M <sup>r</sup> Cook	ay *		M <sup>r</sup> Ross	no *
<i>New York</i>			<i>Virginia</i>	
M <sup>r</sup> Smith	ay	}	M <sup>r</sup> Grayson	no
M <sup>r</sup> Haring	ay		M <sup>r</sup> R H Lee	ay
M <sup>r</sup> Yates	ay		M <sup>r</sup> Carrington	ay
			M <sup>r</sup> Lee	ay
<i>New Jersey</i>			<i>North Carolina</i>	
M <sup>r</sup> Cadwallader	ay	}	M <sup>r</sup> Blount	ay
M <sup>r</sup> Clarke	ay		M <sup>r</sup> Burton	ay
M <sup>r</sup> Schurman	ay			
<i>Pensylvania</i>			<i>South Carolina</i>	
M <sup>r</sup> S <sup>t</sup> Clair	ay	}	M <sup>r</sup> Kean	ay
M <sup>r</sup> Irwine	ay		M <sup>r</sup> Huger	ay
M <sup>r</sup> Bingham	ay		M <sup>r</sup> Butler	ay
M <sup>r</sup> Armstrong	ay			
			<i>Georgia</i>	
			M <sup>r</sup> Few	ay
			M <sup>r</sup> Pierce	ay

So it was resolved in the affirmative.

The second clause was passed without division.

The committee consisted of M<sup>r</sup> [Melancton] Smith M<sup>r</sup> [Nathan] Dane and M<sup>r</sup> [John] Kean to whom was referred the letter<sup>1</sup> of John M Pintard requesting that Sea letters be granted for the ship Columbia and the sloop lady Washington bound on a voyage to the northwest coast of America report "that it appears to them that the ship Columbia and the sloop Lady Washington and their cargoes are the property of citizens of the United States and that they are navigated principally by inhabitants of the United States and are bound on a voyage to the Northwest coast of America"

Whereupon

*Resolved* That Sea letters be granted in the usual form for the ship Columbia, burthen about 220 tons and the sloop

<sup>1</sup> See September 22, 1787.

Lady Washington burthen about 90 tons bound on a voyage to the Northwest coast of America under the command and direction of capt John Kendrick.

On a report<sup>1</sup> of the Secretary for foreign Affairs to whom were referred two letters from the hon<sup>ble</sup> John Adams of the 24 and 27 January last

reconsidered Sept. 25  
and removed

Resolved That the hon<sup>ble</sup> John Adams Minister plenipotentiary of the United States at the court of London be permitted agreeably to his request to return to America at any time after the 24 of feb<sup>y</sup> in the year of our Lord 1788 And that his commission of Minister plenipotentiary to their High Mightinesses do also then determine.

<sup>2</sup> The Secretary of the United States for the department of foreign Affairs to whom were referred two letters<sup>3</sup> from the honorable John Adams of the 24 and 27 of January last having reported<sup>4</sup> that the

Sept. 25, 1787 this  
whole business recon-  
sidered and to be re-  
moved.

first of these letters gives occasion to several questions 1 Shall M<sup>r</sup> Adams return after the expiration of his commission to the court of London viz the 24 feb<sup>y</sup> 1788?

And having on this reported that he is persuaded M<sup>r</sup> Adams really wishes and means to return next spring,  
Whereupon

Resolved That the honorable John Adams the Minister plenipotentiary of the United States at the court of London be permitted agreeably to his request to return to America at any time after the 24 of Feb<sup>y</sup> in the year

<sup>1</sup> See July 26 and August 1, 1787.

<sup>2</sup> From this point to the end of the day the entry is in *Secret Journal, Foreign Affairs, Papers of the Continental Congress*, No. 5, III, pp. 1642-1647. Charles Thomson begins the entry. This entry is marked on the margin with dots to indicate reconsideration and removal.

<sup>3</sup> See April 11, 1787.

of our Lord 1788 and that his commission of Minister plenipotentiary to their High Mightinesses do also then determine.

The Secretary having also reported the following resolution

“That Congress entertain a high sense of the services which M<sup>r</sup> Adams has rendered to the United States in the execution of the various important trusts which they have from time to time committed to him; And that the thanks of Congress be presented to him for the patriotism, perseverance, integrity and diligence with which he has ably and faithfully served his Country”

A motion was made by M<sup>r</sup> Henry Lee seconded by M<sup>r</sup> [William] Blount, that the consideration of this be postponed. And on the question for postponement the yeas and nays being required by M<sup>r</sup> [Rufus] King

<i>Massachusetts</i>			<i>Delaware</i>	
M <sup>r</sup> Gorham	no	}	M <sup>r</sup> Kearny	ay
M <sup>r</sup> King	no		M <sup>r</sup> Mitchell	ay
M <sup>r</sup> Dane	no			
<i>Connecticut</i>			<i>Maryland</i>	
M <sup>r</sup> Johnson	no	}	M <sup>r</sup> Ross	ay *
M <sup>r</sup> Cook	no		<i>Virginia</i>	
<i>New York</i>			M <sup>r</sup> Grayson	ay
M <sup>r</sup> Smith	no	}	M <sup>r</sup> R H Lee	no
M <sup>r</sup> Haring	no		M <sup>r</sup> Carrington	no
M <sup>r</sup> Yates	no		M <sup>r</sup> H. Lee	ay
<i>New Jersey</i>			<i>North Carolina</i>	
M <sup>r</sup> Cadwallader	ay	}	M <sup>r</sup> Blount	ay
M <sup>r</sup> Clarke	no		M <sup>r</sup> Burton	ay
M <sup>r</sup> Schurman	no		<i>South Carolina</i>	
<i>Pennsylvania</i>			M <sup>r</sup> Kean	ay
M <sup>r</sup> S <sup>t</sup> Clair	no	}	M <sup>r</sup> Huger	ay
M <sup>r</sup> Irwine	ay		M <sup>r</sup> Butler	no
M <sup>r</sup> Bingham	ay		<i>Georgia</i>	
M <sup>r</sup> Armstrong	ay		M <sup>r</sup> Few	ay
			M <sup>r</sup> Pierce	ay



So the question was lost.

A division was then called for and on the question to agree to the first clause as far as the word "him" inclusive, the yeas and nays being required by M<sup>r</sup> [Rufus] King

<i>Massachusetts</i>			<i>Delaware</i>			
M <sup>r</sup> Gorham	ay	}	M <sup>r</sup> Kearny	no	}	
M <sup>r</sup> King	ay		M <sup>r</sup> Mitchell	no		no
M <sup>r</sup> Dane	ay					
<i>Connecticut</i>			<i>Maryland</i>			
M <sup>r</sup> Johnson	ay	}	M <sup>r</sup> Ross	ay	*	
M <sup>r</sup> Cook	ay					
<i>New York</i>			<i>Virginia</i>			
M <sup>r</sup> Smith	ay	}	M <sup>r</sup> Grayson	no	}	
M <sup>r</sup> Haring	ay		M <sup>r</sup> R H Lee	ay		d
M <sup>r</sup> Yates	ay		M <sup>r</sup> Carrington	ay		
			M <sup>r</sup> H Lee	no		
<i>New Jersey</i>			<i>North Carolina</i>			
M <sup>r</sup> Cadwallader	no	}	M <sup>r</sup> Blount	ay	}	
M <sup>r</sup> Clarke	ay		M <sup>r</sup> Burton	no		d
M <sup>r</sup> Schurman	ay					
<i>Pensylvania</i>			<i>South Carolina</i>			
M <sup>r</sup> S <sup>t</sup> Clair	ay	}	M <sup>r</sup> Kean	ay	}	
M <sup>r</sup> Irwine	no		M <sup>r</sup> Huger	no		ay
M <sup>r</sup> Bingham	no		M <sup>r</sup> Butler	ay		
			<i>Georgia</i>			
M <sup>r</sup> Armstrong	no	}	M <sup>r</sup> Few	ay	}	
			M <sup>r</sup> Pierce	ay		ay

So the question was lost.

On the question to agree to the second clause the yeas and nays being required by M<sup>r</sup> King

<i>Massachusetts</i>			<i>Delaware</i>	
M <sup>r</sup> Gorham	ay	}	M <sup>r</sup> Kearny	no
M <sup>r</sup> King	ay		M <sup>r</sup> Mitchell	no
M <sup>r</sup> Dane	ay			
<i>Connecticut</i>			<i>Maryland</i>	
M <sup>r</sup> Johnson	ay	}	M <sup>r</sup> Ross	ay *
M <sup>r</sup> Cook	ay			
<i>New York</i>			<i>Virginia</i>	
M <sup>r</sup> Smith	ay	}	M <sup>r</sup> Grayson	no
M <sup>r</sup> Haring	ay		M <sup>r</sup> R H Lee	ay
M <sup>r</sup> Yates	ay		M <sup>r</sup> Carrington	ay
<i>New Jersey</i>			<i>North Carolina</i>	
M <sup>r</sup> Cadwallader	no	}	M <sup>r</sup> Blount	no
M <sup>r</sup> Clarke	ay		M <sup>r</sup> Burton	no
M <sup>r</sup> Schurman	ay		<i>South Carolina</i>	
<i>Pennsylvania</i>			M <sup>r</sup> Kean	no
M <sup>r</sup> S <sup>t</sup> Clair	ay	}	M <sup>r</sup> Huger	no
M <sup>r</sup> Irwine	no		M <sup>r</sup> Butler	ay
M <sup>r</sup> Bingham	no	}	<i>Georgia</i>	
M <sup>r</sup> Armstrong	no		M <sup>r</sup> Few	no
			M <sup>r</sup> Pierce	no

So the question was lost.

The Secretary having further reported "That the second question arising from this letter is Whether it will be expedient for the United States to appoint another minister to take the place of M<sup>r</sup> Adams at the Court of London? And on this head having given his Opinion that it will be expedient to appoint another, because there do exist differences between the United States and the court of London <sup>1</sup> which cannot too soon be adjusted, which must become the subject of occasional explanations and negociations, and which on the part of the United States cannot be so well managed and conducted, as by means of an intelligent and discreet Minister on the spot. Your Secretary's feelings strongly prompt him to retaliate the neglect of Britain in not sending

<sup>1</sup> Benjamin Bankson takes up the record.

a Minister here; but as he conceives that such retaliation would eventually produce more inconveniences than advantages, he thinks it had better be omitted; especially as he is persuaded that this neglect will cease, the moment that the American Government and the Administration of it shall be such as to impress other nations with a degree of respect, which various circumstances deny to Congress the means of imposing at present. He thinks it should be the policy of the United States at present to keep all things as smooth and easy, and to expose themselves to as few embarrassments as possible, until their Affairs shall be in such a posture as to justify and support a more nervous stile of conduct and language.

Britain disputes the eastern boundary of the United States, she holds important Posts and territories on the frontiers, and she complains that the treaty of Peace has been violated by America. These Affairs are important, and the management of them requires prudence and temper, especially considering how little the actual state of our National Affairs tends to repress the influence either of unfriendly dispositions and passions, or of that kind<sup>1</sup> of policy which the weakness of Neighbours is very apt to suggest and promote, and that if Congress concur in the Opinion that a Minister should succeed M<sup>r</sup> Adams a resolution like the following would perhaps be the most proper viz. Whereas divers important affairs still remain to be arranged and adjusted between his Britannic Majesty and the United States which on their part cannot be so well conducted as by means of a Minister plenipotentiary at the court of London therefore resolved that a minister plenipotentiary to reside

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

at that court be appointed and that his Commission take effect on the 25 day of Feb<sup>y</sup> 1788 and continue in force for the space of three years thereafter unless sooner revoked.

On Motion ordered that the consideration of this part of the report be postponed.

[Report of committee on protest of the United Netherlands <sup>1</sup>]

The Committee consisting of M<sup>r</sup> [Nathan] Dane, M<sup>r</sup> [James Mitchel] Varnum, M<sup>r</sup> [John] Kean, M<sup>r</sup> [Abraham] Clarke, and M<sup>r</sup> [William] Grayson, to whom were referred a report <sup>2</sup> from the Secretary for the Department of foreign affairs, and a note <sup>3</sup> from the minister of the United Netherlands, report,

That the said minister, in his note aforesaid, complains that, by an Act of the State of Virginia, French brandies imported into that State, in French or American vessels, are exempted from certain Duties, to which the like Commodities imported in Dutch vessels are left liable, as being contrary to the Second Article in their treaty with the United States.

The Committee find that the State of Virginia, in her last Session, by a legislative Act, made the distinction complained of; and tho. the reasons, that induced her to make the distinction, are not recited in the Act, yet, from various circumstances ~~and good information~~, it appears, that the State granted the exemptions or favors complained of to France, in compensation, ~~or in return~~, for certain favors and exemptions in commerce, enumerated in M<sup>r</sup> Calonne's letter <sup>4</sup> to M<sup>r</sup> Jefferson dated the 22<sup>d</sup> of October 1786, which, in the Opinion of the State, France had liberally granted to the United States, and especially to Virginia.

These proceedings of Virginia do not appear to have a precedent in the affairs of the United States, and give rise to several important questions, they bring into view Articles in the treaties, which are not

<sup>1</sup> *Papers of the Continental Congress*, No. 25, II, pp. 477-481, in the writing of Mr. Nathan Dane. Read September 24, 1787. The report of the Secretary for Foreign Affairs on the subject was passed October 13, 1787.

<sup>2</sup> See March 15, 1787.

<sup>3</sup> See March 1, 1787.

<sup>4</sup> *Papers of the Continental Congress*, No. 87, I, pp. 706-713, original French, with translation pp. 714-717.

easily understood, as well as parts of our national system which hitherto appear only to have come generally into consideration.

The second and third Articles in the treaty with France, and the second in the treaty with the United Netherlands respect this subject. The second in the treaty with France is "The Most Christian King and the United States engage mutually not to grant any particular favor to other nations in respect of Commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same favor freely, if the concession was *freely* made, or on allowing the same compensation if the concession was conditional."

By the second Article in our treaty with the United Netherlands, it is stipulated, that their subjects shall pay in our ports, &c. no other nor greater duties or imposts, than those which the Nations, *the most favored* are or shall be obliged to pay; and that they shall enjoy therein all the rights, liberties, privileges, Immunities, and exemptions in trade, navigation, and commerce which the said nations do or shall enjoy, but this Article takes no notice of Cases where compensation is granted for privileges. The Committee conceive however that reason and equity will give both Articles exactly the same Operation. Where a privilege is gratuitously granted, the Nation to whom it is granted, becomes in respect to that privilege, a favored Nation, and from that circumstance *both* the Articles in question deduce claims to the like favor, but where the privilege is not gratuitous but rests on compact, or where the privilege is yielded by one party as a consideration, or as a compensation for a privilege yielded by the other, the favor, if any there be, consists only in the power of making the compact, or the exchange of privileges, and the favor, in this Case, due to the third Nation entitled to the benefits of the most favored Nations from either party, consists only in the right such third Nation has to make a compact or exchange of privileges with the party so in treaty with her, on the same terms as that party stipulated with the other. This construction is, in the opinion of the Committee, founded in the highest reason and propriety, and the contrary doctrine must be productive of confusion and Injustice. If France should, therefore, purchase at a certain price, a privilege of the United States, it would be evidently unreasonable that the Dutch should have a like privilege without any price at all. The Dutch would in this Case have better terms than the most favored nation, France; and, therefore, more than is stipulated for, in the treaty, and France clearly would have reason to com-

plain, that she was not treated on so good terms as the most favored Nation, the Dutch.

But another question arises in this Case, ~~which seems to have escaped the Secretary~~, and that is, in what manner shall a privilege gratuitous, or not, be granted.

It is to be observed that the extent of most Commercial privileges granted by modern treaties, must be ascertained by a reference to those yielded by the grantors, to the most favored Nations, and, therefore, a variation in the privileges allowed by any one Nation to another, may Justly give occasion to vary the privileges allowed by the former to all other Nations, and thus by any change of privileges several Nations may become immediately interested, and each entitled to claim for itself whatever may be yielded to any one by such change or variation. The terms also of national treaties are, in general indefinite and ought to receive a liberal and rational construction. The Committee, on carefully considering this part of the subject, are clearly of opinion, that whenever a privilege is yielded by a Nation which has stipulated to yield to other Nations the benefits allowed to the most favored, that the nature of the privilege, whether gratuitous or to be paid for, ought to be known and expressed at the time it is yielded; and if such privilege be intended as a compensation, or a compensation is to be received for it, the privilege and compensation form the inseparable parts of a compact, which, in the nature of shings, must stand connected together. A little attention to this subject must fully evince that when a treaty has been formed by parties circumstanced as above supposed, that no privilege not merely gratuitous, can with propriety, pass from one to the other, without compact; and that in nature of an additional Article to the subsisting treaty. The contrary position must be absurd both in Theory and practice, if France, for instance, which has stipulated with several Nations to allow each of them the benefits of the most favored, can yield a privilege to any one of them, and it can remain uncertain for any longer or shorter time, whether that privilege was yielded gratuitously or not, how are the said other Nations to come at their rights in the mean time, but the Case in question goes further, France seems to have yielded the privileges and exemptions mentioned in the said Note, without herself knowing whether they would be gratuitous, or eventually be paid for; for it appears to have been left to the option of the United States to make them the one thing or the other, besides if among Nations, all put on an equal footing by treaty, every privilege

loosely granted is to be the foundation of distinctions, most modern treaties will be useless, and a total uncertainty must take place in the system of commerce.

Thus far the Committee have pursued this subject under the idea that even the Union had made the distinction complained of and it appears clear that even the nation itself can make no such distinctions in so loose and uncertain a manner.

But a third question arises, and that is, what constitutional power has a State, a part of the nation, to Judge of the privileges yielded to her, or to the United States, and to deal out compensation for them? By the Articles of Confederation, it is agreed, that Congress shall have the sole and exclusive right and power of entering into treaties and alliances; provided that no treaty of Commerce shall be made, whereby the legislative powers of the respective States shall be restrained from imposing such imposts and Duties on foreigners, as their own people are subject to pay, or from prohibiting the exportation or importation of any Species of goods. it is also agreed that no State, without the consent of the United States, shall enter into any Conference, agreement, alliance or treaty with any king, prince or State.

Thus by the federal compact, it is wisely and properly established that no State, or part of the nation, shall have any part in making a treaty, &c. between the nation and a foreign power, but by its Delegates in the national Council. The power of Congress to bind the Nation by treaty is complete, with these two exceptions only 1<sup>st</sup> no treaty can authorise a foreigner to pay less duties than the Citizens of the State pay. 2<sup>d</sup> no treaty can prevent the State from prohibiting the importation and exportation of goods, and whatever treaty, therefore, is made by Congress, not infringing these rights of the several States, is binding on all parts of the Nation; and it appears that the States in all Cases, except the present, have in laying duties, making Commercial regulations, &c. regarded treaties accordingly, and in this, they have conducted according to the obvious dictates of reason and propriety. The contrary conduct, the Committee conceive would be attended with infinite inconveniences, if one State can at discretion make distinctions between the subjects of powers put on an equal footing by national treaties, Judge of privileges yielded, and of compensation for them, another State may make other distinctions, and thereby those subjects be put into various situations totally different.

Contemplating this subject in every point of view it appears to the Committee so clear that a state cannot constitutionally make the distinctions alluded to that they should think it unnecessary to adduce any arguments, had not the Act complained of been passed by a very respectable State in the Union. The Committee are inclined to believe that it passed not having received the attention which that State usually pays to important laws which may effect the national system and public treaties, and that on the earliest notice the said state will do away the distinction complained of. Whereupon the Committee submit the following Resolutions,

*Resolved* That no individual State can constitutionally, without the Consent of the United States in Congress Assembled, make any compensation for privileges or exemptions granted in trade Navigation or Commerce by any foreign power to the United States or any of them, and that whenever any of the States shall think proper to grant any privileges or exemptions in trade, Navigation, and Commerce, to any foreign Nation gratuitously, such State ought to extend them to such other foreign Nations as by treaties with the United States are to be treated as the most favored Nation.

*Resolved* That a copy of the above resolution and of the representation of the minister of the United Netherlands be transmitted to the State of Virginia, to the end that the legislature of that State may take the earliest Opportunity of revising the Act of which the said Minister complains, and rendering the same perfectly consistent with the treaty subsisting between the United States and the United Netherlands; and of causing to be repaid whatever extra Duties may by virtue of the said Act, be exacted on brandies there imported in Dutch vessels, during the Operation of the same.

*Resolved* That copies of the foregoing resolutions be given to the ~~said~~ minister of the United Netherlands and that he be requested to assure their High Mightinesses that Congress are well persuaded that the Omission of Virginia, in not extending to them the favor granted to France, was entirely inadvertent and not designed; and they flatter themselves that the said resolutions, and the respect with which they will be treated by Virginia, will fully manifest to their High Mightinesses the good faith and friendship of the United States in General and of Virginia in particular.



[Letter of Secretary at War on Canadian refugees <sup>1</sup>]

WAR OFFICE, September 22<sup>d</sup> 1787.

SIR: I have the honor to transmit to your Excellency a petition <sup>2</sup> of the Canadian refugees who repaired to Lake Champlain in the course of the last year with the intention to settle certain lands given to them by the Legislature of New York.

Congress were pleased by their act <sup>3</sup> of the 30<sup>th</sup> June 1786 to direct that the said Canadians should be furnished with rations for fifteen months which terminated on the 31<sup>st</sup> ultimo.

By a mistake in the persons directed to assign them their lands, some clashing claims for the same lands on the river Chazzi, and an apprehension, perhaps well founded, that the British troops at Point au Fer would prevent any settlement above that post, have been the causes which have prevented the Canadians from possessing the bounty intended for them by the State of New York.

These circumstances sufficient in themselves to embarrass and discourage an industrious and enterprising people in forming a new settlement, have operated with peculiar force on a class of men habituated for a long period to be supported by the government.

I have applied to His Excellency Governor Clinton on the occasion who has given every direction the nature of the case will admit to rectify any errors that may have arisen and to facilitate the ascertainment and delivery of the lands. But a considerable period of time must elapse before complete possession can be given. In the mean time it is to be apprehended that some of the Canadians may suffer from a want of necessary food.

Although the conduct of the United States has been liberal beyond their abilities in other respects to the Canadian Refugees yet circumstances which those helpless people could not controul have prevented them from availing themselves thereof in such a manner as to obtain their food by their own industry.

<sup>1</sup> *Papers of the Continental Congress*, No. 150, II, pp. 517-519, read September 24, 1787. According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 168, this letter and the enclosed petition were referred to the Board of Treasury to report. Report rendered October 2, and passed October 12, 1787.

<sup>2</sup> *Papers of the Continental Congress*, No. 42, II, pp. 226-227, read September 24, 1787. An accompanying list of officers, soldiers and refugees is on pp. 230-232. Acted on October 12, 1787.

<sup>3</sup> *Journals*, vol. XXX, pp. 381-382.

The court of Great Britain have conceived it a necessary measure to continue from time to time rations of provisions to the refugees from the United States who are attempting to cultivate the soil in the different colonies.

How far such a procedure on their part involves in any degree an obligation of a similar conduct on the part of the United States towards the Canadian refugees, future measures relative to Canada being considered, is a point to be decided only by Congress.

It is to be observed that almost all the persons whose names accompany the petition have been actually in the service of the United States during the late war either as officers or soldiers and that their return to Canada under its present government would not be permitted.

I have the honor to be, etc.,

H KNOX <sup>1</sup>

His Excellency

THE PRESIDENT OF CONGRESS.

<sup>1</sup> SEPTEMBER 24, 1787. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 168, the following were referred:

Letter of Thomas Hutchins to President of Congress, dated and read September 24, 1787, asking to be enabled to pay drafts drawn by the surveyors. *Papers of the Continental Congress*, No. 60, p. 323. Referred to the Board of Treasury to report. Report rendered October 2 and acted on October 3, 1787.

Memorial of Jedediah Huntington, September 20, 1787, read September 24, requesting pay for rations. *Papers of the Continental Congress*, No. 41, IV, p. 372 and another copy in No. 55, p. 105. Referred to the Commissioner of Army Accounts to report. Report rendered September 27, 1787.

According to indorsement the following letters were read:

Letter of Arthur Lee to President of Congress, September 22, 1787, respecting a suit brought against him by Calbraith and others. *Papers of the Continental Congress*, No. 78, XIV, pp. 739-740. See September 25, 1787.

Letter of John Collins, governor of Rhode Island, to President of Congress, September 17, 1787, giving reasons for not having sent delegates to the Convention. *Papers of the Continental Congress*, No. 64, p. 588. The inclosures are copies of the following Acts of the Legislature: (1) Reasons of Rhode Island for not sending delegates to the Convention, signed by John Collins and read September 24, 1787, pp. 600-603; (2) Protest of sundry members against these reasons, pp. 592-594; (3) Reasons of Legislature for not sending delegates to Congress previous to first Monday in November 1787, pp. 596-597, and (4) Making the treaty with Great Britain fully binding, p. 582.

TUESDAY, SEPTEMBER 25, 1787.

Congress assembled present New Hampshire, Massachusetts Connecticut, New York, New Jersey, Pennsylvania, Delaware Virginia, North Carolina South Carolina and Georgia and from Maryland M<sup>r</sup> [David] Ross.

M<sup>r</sup> John Langdon and M<sup>r</sup> Nicholas Gilman delegates for New hampshire produced the credentials of their Appointment under the seal of the state by which it appears that On the 14<sup>th</sup> June 1786 they were appointed delegates to represent the said state in the Congress of the United States for one year commencing the first Monday in November following.

[Credentials of John Langdon, New Hampshire <sup>1</sup>]

The State of New Hampshire,

To John Langdon Esquire Greeting.

Whereas the General Court of this State, did, at their Session held at Concord on the fourteenth day of June last, appoint  
(Seal) you the said John Langdon one of the Delegates to represent this State in the Congress of the United States of America;

Now Therefore, Know You, that by these presents, in pursuance of the said Appointment, You the said John Langdon are commissioned to be one of the Representatives of this State in Congress, and vested with all and singular the Power and Authority to the said Office or Place of Delegate belonging by virtue of the Constitution of this State, and the Appointment aforesaid, To Have and To Hold to you the said John Langdon the said Office or Place of Delegate for the term of One Year from and after the first Monday in November next unless sooner relieved or recall'd by the General Court of this State.

In Testimony whereof, the Seal of said State is hereunto affixed: Witness John Sullivan Esquire President of said State Exeter this Twenty fifth day of September Anno Domini One Thousand, Seven

<sup>1</sup> Original credentials, indorsed as read September 25, 1787, in *Papers of the Continental Congress*, New Hampshire Credentials. Copied in *Record of Credentials, Papers of the Continental Congress*, No. 179, I, p. 221.

Hundred and Eighty six, and of the Sovereignty and Independence of the United States of America the Eleventh.

JN<sup>o</sup> SULLIVAN

By His Excellency's Command,  
JOSEPH PEARSON *Sec<sup>y</sup>*

[Credentials of Nicholas Gilman, New Hampshire <sup>1</sup>]

The State of New Hampshire,

To Nicholas Gilman Esquire, Greeting.

Whereas the General Court of this State did, at their Session held at Concord on the twenty seventh day of June last  
(Seal) appoint you the said Nicholas Gilman one of the Delegates to represent this State in the Congress of the United States of America;

Now therefore Know You, that by these presents, in pursuance of the said Appointment, You the said Nicholas Gilman are commissioned to be one of the Representatives of this State in Congress, and vested with all and singular the Power and Authority to the said Office or Place of Delegate belonging by virtue of the Constitution of this State and the Appointment aforesaid, To Have and To Hold, to you the said Nicholas Gilman the said Office or Place of Delegate for the term of One Year from and after the first Monday in November next unless sooner relieved or recall'd by the General Court of this State.

In Testimony whereof, the Seal of said State is hereunto affixed: Witness John Sullivan Esquire President of said State at Exeter this Twenty fifth day of September Anno Domini One Thousand, Seven Hundred and Eighty six, and of the Sovereignty and Independence of the United States of America the Eleventh.

JN<sup>o</sup> SULLIVAN

By His Excellencys Command  
JOSEPH PEARSON *Sec<sup>y</sup>*

Whereas it has been represented to Congress by the delegates of Georgia that their country is in danger of an invasion

<sup>1</sup> Original credentials, indorsed as read September 25, 1787, in *Papers of the Continental Congress*, New Hampshire Credentials. Copied in *Record of Credentials*, *Papers of the Continental Congress*, No. 179, I, p. 222.

*Resolved* that the Secretary at War ~~send forward~~ deliver to the order of the delegates of Georgia one hundred and fifty pair of horsemens pistols, one hundred and fifty dra-goons swords, one pair of brass field pieces three pounders, one thousand pound of gun powder and six hundred rounds of grape and round shot for the field pieces the state of Georgia to be accountable.<sup>1</sup>

The committee consisting of M<sup>r</sup> R[ichard] H[enry] Lee M<sup>r</sup> [William] Grayson and M<sup>r</sup> [William] Few to whom was referred a petition <sup>2</sup> of Nathaniel Twining having reported <sup>3</sup> "That it appears to them that M<sup>r</sup> Twining having undertaken the business of conveying the mails by stages through a great extent of country interrupted by many wide ferries and through very deep and sandy roads hath found from experience that the expence of this undertaking exceeded the allowance he had agreed by contract to receive from the public. That his willingness to execute the business on the most reasonable terms had induced him for the year 1787 to accept of about one thousand dollars less than had been allowed him for the year preceding whilst the other contrac-tors, though on roads more practicable taking advantage of the necessity that compelled the postmaster to form con-tracts for the conveyance of the mails insisted upon and actually received a larger allowance for the year 1787 than was allowed for the year preceding. That from necessity he

<sup>1</sup> This resolve is in *Papers of the Continental Congress*, No. 20, II, p. 457, without the introductory clause. What is apparently the first form of the motion is on pp. 455-456, as follows:

"Whereas it has been represented to Congress by the delegates of Georgia that their country is in a defenceless situation and that in danger of an invasion, *Resolved* that the Secretary of War send forward to the Executive of the State of Georgia 150 pr of dragoon swords; 150 pr. of dragoon pistols and two light brass field pieces with ammunition complete for one campaign, the said State to be accountable for the same."

<sup>2</sup> See September 20, 1787.

<sup>3</sup> See September 22, 1787. See also September 26, 1787.

has been obliged to convey the mails during some part of the time and on some parts of the line, by horses instead of carriages, which according to the strictness of the contract he hath entered into, makes him liable to penalties which still add to his misfortunes. That in consideration of the premises and of the propriety of giving reasonable encouragement to the undertakers of new and useful employments for the public who are commonly subjected as M<sup>r</sup> Twining has been to unforeseen difficulties the committee recommend That the postmaster general be instructed to allow M<sup>r</sup> Twining the same consideration for his services for the year 1787 as he contracted for in the year 1786, and to remit to M<sup>r</sup> Twining the penalties he hath incurred by the failures of his contract as before specified, taking care to reserve an indemnification for the public in cases where money has been actually paid or been contracted to be paid for services in conveying the mail unperformed by M<sup>r</sup> Twining. And that the mails may for the remaining part of this year be continued to be conveyed on this route by horses in place of carriages in such part of his line where they have already been so done.

The foregoing report being under consideration A division was called for and on the question That the postmaster general allow M<sup>r</sup> Twining the same consideration for his services for the year 1787 as he contracted for in the year 1786 the yeas and nays being required by M<sup>r</sup> [Melancton] Smith

<i>New Hampshire</i>			<i>Maryland</i>	
M <sup>r</sup> Langdon	ay	}ay	M <sup>r</sup> Ross	ay*
M <sup>r</sup> Gilman	ay		<i>Virginia</i>	
<i>Massachusetts</i>			M <sup>r</sup> Grayson	ay
M <sup>r</sup> Gorham	ay	}ay	M <sup>r</sup> Madison	ay
M <sup>r</sup> King	ay		M <sup>r</sup> R H Lee	ay
M <sup>r</sup> Dane	no		M <sup>r</sup> Carrington	ay
			M <sup>r</sup> H Lee	ay
<i>Connecticut</i>			<i>North Carolina</i>	
M <sup>r</sup> Johnson	ay	}d	M <sup>r</sup> Blount	no
M <sup>r</sup> Cook	no		M <sup>r</sup> Ashe	no
<i>New York</i>			Mr Burton	no
M <sup>r</sup> Smith	no	}no	<i>South Carolina</i>	
M <sup>r</sup> Yates	no		M <sup>r</sup> Kean	no
<i>New Jersey</i>			M <sup>r</sup> Huger	ay
M <sup>r</sup> Cadwallader	ay	}ay	M <sup>r</sup> Butler	ay
M <sup>r</sup> Schurman	ay		<i>Georgia</i>	
<i>Pensylvania</i>			M <sup>r</sup> Few	ay
M <sup>r</sup> S <sup>t</sup> Clair	ay	}ay	M <sup>r</sup> Pierce	ay
M <sup>r</sup> Irwine	ay			
M <sup>r</sup> Armstrong	ay			
<i>Delaware</i>				
M <sup>r</sup> Kearny	ay	}ay		
M <sup>r</sup> Mitchell	ay			

So the question was lost.

On the question

*Resolved* That the post master gen<sup>l</sup> be and he is hereby instructed to remit to M<sup>r</sup> Twining the penalties he hath incurred by the failures of his contract by conveying the mail by horses instead of carriages, taking care to reserve an indemnification for the public in cases where money has been actually paid or been contracted to be paid for services in conveying the mail unperformed by M<sup>r</sup> Twining And that the mails may for remaining part of this year be continued to be conveyed on this route by horses in place of carriages in such parts of his line where they have already been so done.

[Reports of Secretary of Congress on sundry petitions <sup>1</sup>]

OFFICE OF SECRETARY OF CONGRESS

*Sept 25, 1787*

On a petition of Andrew M<sup>e</sup> Farlane stating that he had a commission of lieutenant given him on the 22 Jan<sup>y</sup> 1777 in capt Morcheads company, which was raised for the defence of the western frontiers; that on the 14 feb<sup>y</sup> following he was taken prisoner, that during his captivity he was deranged and praying for the allowance of one years pay granted to deranged Officers the Secretary of Congress reports That the petition of Andrew M<sup>e</sup> Farlane be referred to the Commissioner of Army Accounts <sup>2</sup> to report.

On the letter of 22 from M<sup>r</sup> A Lee, stating that the suit instituted against the Com<sup>rs</sup> for negotiating treaties with the Indian Nations by Calbreath and others is soon to come to issue, that at present he alone stands burthened with the expence of the suit and answerable for its issue and suggesting his hopes that Congress will not think it just that the expence cost and possible damages should fall on him, but that they will be pleased to Order these to be paid out of the public treasury,

The Secretary of Congress reports

That the letter of the 22 feb<sup>y</sup> <sup>3</sup> from M<sup>r</sup> A Lee be referred to a com<sup>o</sup> <sup>4</sup>

[Order to the Board of Treasury <sup>5</sup>]

Order, that the board of treasury lay before Congress a general abstract of the expenditure of all public monies received by M<sup>r</sup> Adams while Minister in Europe.

<sup>1</sup> *Reports of Secretary of Congress, Papers of the Continental Congress*, No. 180, p. 62.

<sup>2</sup> According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 168, the petition was so referred. See September 21, 1787.

<sup>3</sup> This is an error; the date of the letter was September 22.

<sup>4</sup> According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 168, the committee consisted of Mr. William Samuel Johnson, Mr. Rufus King and Mr. Nathaniel Gorham. It was discharged October 9 and the letter was acted on October 23, 1787. See September 24, 1787.

<sup>5</sup> This order is entered by Roger Alden in the *Committee Book, Papers of the Continental Congress*, No. 190, p. 168. Report rendered October 4, 1787.



[Letters of Secretary for Foreign Affairs transmitting correspondence]

OFFICE FOR FOREIGN AFFAIRS

24<sup>th</sup> Sept<sup>r</sup> 1787<sup>1</sup>

SIR: I have the Honor to transmit to your Excellency herewith enclosed two Letters<sup>2</sup> from M<sup>r</sup> Dumas of 7<sup>th</sup> and 30<sup>th</sup> June last, together with the Papers mentioned in them and Translations; and am

With great Respect, etc.,

JOHN JAY.

His Excellency

THE PRESIDENT OF CONGRESS.

OFFICE FOR FOREIGN AFFAIRS

24<sup>th</sup> Septem<sup>r</sup> 1787<sup>3</sup>

SIR: I have the Honor to transmit to your Excellency herewith enclosed a Letter from M<sup>r</sup> Barclay of 25<sup>th</sup> June last, together with all the Accounts mentioned to be enclosed with it; and am with great Respect, etc.,

JOHN JAY.

His Excellency

THE PRESIDENT OF CONGRESS.

<sup>1</sup> *Papers of the Continental Congress*, No. 80, III, p. 325, read September 25, 1787.

<sup>2</sup> *Papers of the Continental Congress*, No. 93, III, p. 255 and 275-277, respectively, with enclosures of the first and translations on pp. 259, 261, 265 and 267-273. Letter No. 24 of June 7, refers to a Swedish captain who ran away with a vessel. No. 25 of June 30, deals with the state of the parties in the Netherlands, his own situation and pay of arrears due him.

<sup>3</sup> *Papers of the Continental Congress*, No. 80, III, p. 317, read September 25, 1787. Barclay's letter transmits the accounts of Lagoanere and Co. of Coruña. See September 27, 1787.

OFFICE FOR FOREIGN AFFAIRS,  
24<sup>th</sup> Septem<sup>r</sup> 1787<sup>1</sup>

SIR: I have the Honor to transmit to your Excellency herewith enclosed a Letter from M<sup>r</sup> Jefferson of 6<sup>th</sup> August last, together with the Papers mentioned to be enclosed with it and Translations of them.

I have the Honor to be, etc.,

JOHN JAY.

His Excellency  
THE PRESIDENT OF CONGRESS.

WEDNESDAY, SEPTEMBER 26, 1787.

Congress assembled present as before.

On motion of the delegates for North Carolina

*Resolved* That the post master general be and he is hereby instructed to allow M<sup>r</sup> Nathaniel Twining the same consideration for his services for the year 1787 as he contracted for in the year 1786.<sup>2</sup>

On the question to agree to the above resolution the yeas and nays being required by M<sup>r</sup> [Abraham] Yates

<sup>1</sup> *Papers of the Continental Congress*, No. 80, III, p 321, read September 25, 1787. A copy of Jefferson's letter is in *Papers of the Continental Congress*, No. 107, II, pp. 39-49, with various enclosures (incomplete) on pp. 49-59. It deals with a seized vessel; trade in Guadaloupe; Barclay's accounts and his arrest; consular convention; Luzerne and Moustier; services of Lafayette; affairs of the Emperor, Holland, Russia, England and France; transfer of debt from France to Holland; and Beaumarchais. See October 2, 1787, August 11 and 20, 1788.

<sup>2</sup> See September 20, 1787. See also September 25, 1787.

<i>New Hampshire</i>			<i>Delaware</i>			
M <sup>r</sup> Langdon	ay	} ay	M <sup>r</sup> Kearny	ay	} ay	
M <sup>r</sup> Gilman	ay		M <sup>r</sup> Mitchell	ay		
<i>Massachusetts</i>			<i>Maryland</i>			
M <sup>r</sup> Gorham	ay	} ay	M <sup>r</sup> Ross	ay	*	
M <sup>r</sup> King	ay		<i>Virginia</i>			
M <sup>r</sup> Dane	no		M <sup>r</sup> Grayson	ay	} ay	
<i>Connecticut</i>		M <sup>r</sup> Madison	ay			
M <sup>r</sup> Johnson	ay	M <sup>r</sup> R H Lee	ay			
M <sup>r</sup> Cook	no	M <sup>r</sup> Carrington	ay			
<i>New York</i>			M <sup>r</sup> H Lee	ay		
M <sup>r</sup> Smith	no	} no	<i>North Carolina</i>			
M <sup>r</sup> Haring	no		M <sup>r</sup> Blount	ay	} ay	
M <sup>r</sup> Yates	no		M <sup>r</sup> Ashe	ay		
<i>New Jersey</i>		M <sup>r</sup> Burton	ay			
M <sup>r</sup> Cadwallader	ay	} ay	<i>South Carolina</i>			
M <sup>r</sup> Clarke	ay		M <sup>r</sup> Kean	no	} ay	
M <sup>r</sup> Schurman	ay		M <sup>r</sup> Huger	ay		
<i>Pensylvania</i>		M <sup>r</sup> Butler	ay			
M <sup>r</sup> S <sup>t</sup> Clair	ay	} ay	<i>Georgia</i>			
M <sup>r</sup> Irwine	ay		M <sup>r</sup> Few	ay	} ay	
M <sup>r</sup> Bingham	ay		M <sup>r</sup> Pierce	ay		
M <sup>r</sup> Armstrong	ay					

So it was resolved in the affirmative.

[Report of Secretary for Foreign Affairs on petition of V. and P. French and Nephew <sup>1</sup>]

OFFICE FOR FOREIGN AFFAIRS

26<sup>th</sup> Septem<sup>r</sup> 1787

The Secretary of the United States for the Department of foreign Affairs, to whom was referred a Petition of Mess<sup>rs</sup> Val. and Pat. French and Nephew,

Reports

That this Petition states, that the Petitioners had arrested Thomas Barclay Esquire, the american Consul General in France and Agent

<sup>1</sup> *Papers of the Continental Congress*, No. 81, III, pp. 1-2, read September 26, 1787. See September 20 and October 15, 1787.

for negotiating the Treaty lately concluded with Morocco, for the Recovery of a Debt due from him to them; and that the Parliament of Guienne from Respect to his official Character had released him. The Petitioners pray, in Substance, that the Law may have free course against him.

A late Letter from M<sup>r</sup> Jefferson, now before Congress, mentions that the Obstacle in Question had been removed by the Interference of the french Minister, and in the Opinion of your Secretary very properly; for in his Judgment M<sup>r</sup> Barclay, at least after his Return from Morocco, had no official Character to which the Laws of Nations annex such a Privilege.

It is not necessary therefore that any *particular* Order on the Subject of this Petition be now made; but in the Opinion of your Secretary it would not be improper to take this Opportunity of obviating the Necessity of similar Applications in future by some *general* Resolution like the following, Viz<sup>t</sup>

On a Report from the Secretary for foreign Affairs to whom was referred a Petition from Mess<sup>rs</sup> French and Nephew,

*Resolved* that the Consuls of the United States in foreign Parts, as well as the Consuls of foreign Nations residing in the United States, may be prosecuted like private Citizens and Subjects, for their proper Debts, in the Manner prescribed by the Laws of the Land where they reside.

Your Secretary will be much mistaken if the United States do not always experience more Inconveniences from the Residence of foreign Consuls here, than they will ever experience Advantages from the Residence of american Consuls abroad. These foreign Gentlemen already embarrass our Commerce, and that, as well as a Variety of other Circumstances and Considerations, should in his Opinion render it the Policy of America to allow them only that Degree of official Weight and Pre-eminence, which may be strictly due to them by the Laws of Nations.

All which is submitted to the Wisdom of Congress.

[Report of Secretary for Foreign Affairs on memorial of B. Norton<sup>1</sup>]

## OFFICE FOR FOREIGN AFFAIRS

25<sup>th</sup> Septem<sup>r</sup> 1787

The Secretary of the United States for the Department of foreign Affairs, to whom was referred a Memorial of Beriah Norton, dated the 15<sup>th</sup> September Instant,

Reports,

That the Memorial states in substance, that in September 1778 at Marthas Vineyard, of which the Memorialist had the military Command, he delivered a Number of Cattle and Sheep to the british General Grey, who promised that Payment should be made for the Value of them.

That in October 1778 Congress permitted the Memorialist to go to New York to solicit Payment, that his Account was allowed to be just and amounted to £7923, but that he had never been able to obtain more than a partial Payment, Viz<sup>t</sup> £3000, notwithstanding his Applications to the british Lords of the Treasury, Ministers, &c. He requests from Congress such Aid and Advice to enable him to prosecute the Business, as they shall think fit and right.

It appears to your Secretary that Marthas Vineyard being american Ground, the Enemy had good Right *flagrante Bello* to take away all the Sheep and Cattle they found there without paying any thing for them. If however, from Motives of Policy, they *gratuitously* (and not in the way of Capitulation, or Convention with the american Government) promised Payment, that Promise being left *in statu quo* by the Treaty, must be considered as having been made at a Time and under Circumstances, which exempt Britain from any Responsibility to the United States for the Performance of it, and consequently it would not be proper for the United States to take any Measures respecting it.

If on the other Hand this Promise or Contract is to be considered as being of *legal* Obligation, and not merely *honorary* and gratuitous, then the Memorialist has his Remedy at law, and the Interference of Congress can at present neither be necessary nor proper.

The Sum in Demand is doubtless important to the Individuals interested in it; but as national Interposition should be confined to Objects which affect either the national Interest or the national Honor,

<sup>1</sup> *Papers of the Continental Congress*, No. 81, III, pp. 163-164, read September 26, 1787. See September 21, 1787.

your Secretary is of Opinion it should not be extended to such Concerns and Affairs of Individuals, as are unconnected with, and do not touch or affect the national Rights.

All which is submitted to the Wisdom of Congress.

JOHN JAY.

[Report of Secretary for Foreign Affairs on letter of John Temple <sup>1</sup>]

[Report of Secretary for Foreign Affairs on letter of Reade and Bogardus <sup>2</sup>]

THURSDAY, SEPTEMBER 27, 1787.

Congress assembled, present as before.

According to Order Congress resumed the Consideration of the form of a Constitution <sup>3</sup> for the United States of America framed and transmitted to Congress by the Convention of the States held at Philadelphia pursuant to the Resolve of the twenty first day of February last. And a motion <sup>4</sup> being made by Mr R[ichard] H[enry] Lee seconded by Mr [Melancton] Smith in the words following “*Resolved* That Congress after due attention to the Constitution under which this body exists and acts find that the said Constitution in the thirteenth Article thereof limits the power of Congress to the amendment of the present confederacy of thirteen states; but does not extend it to the creation of a new confederacy of nine states; and the late Convention having been

<sup>1</sup> *Papers of the Continental Congress*, No. 81, III, pp. 159–161, read September 26, 1787. The report was passed September 28 where it is entered in the *Secret Journal Foreign*, with such changes necessary to make the proposed resolves adopted ones and to make the report a *Journal* entry. See September 20 and 21, 1787.

<sup>2</sup> *Papers of the Continental Congress*, No. 81, III, pp. 155–158, read September 26, 1787. This report was agreed to on October 3, 1787, where it is entered *verbatim* in the *Secret Journal Foreign*. See August 2, 1787.

<sup>3</sup> See September 20, 1787. This subject was first considered September 26, and was acted on September 28, 1787.

<sup>4</sup> *Papers of the Continental Congress*, No. 36, III, p. 377, in the writing of Mr. Richard Henry Lee.

constituted under the authority of twelve states in this Union it is deemed respectful to transmit and it is accordingly ordered that the plan of a new federal constitution laid before Congress by the said convention be sent to the executive of every state in this Union to be laid before their respective legislatures.<sup>2</sup>

A motion was made by M<sup>r</sup> [Abraham] Clarke seconded by M<sup>r</sup> [Nathaniel] Mitchel to postpone the consideration of that Motion in order to take up the following "That a copy of the Constitution agreed to and laid before Congress by the late Convention of the several states with their resolutions and the letter accompanying the same be transmitted to the executives of each state to be laid before their respective legislatures in order to be by them submitted to conventions of delegates to be chosen agreeably to the said resolutions of the Convention".

On the question to postpone for the purpose above mentioned the yeas and nays being required by M<sup>r</sup> R[ichard] H[enry] Lee

<i>New Hampshire</i>			<i>Delaware</i>	
M <sup>r</sup> Langdon	ay	} ay	M <sup>r</sup> Kearny	ay
M <sup>r</sup> Gilman	ay		M <sup>r</sup> Mitchell	ay
<i>Massachusetts</i>			<i>Maryland</i>	
M <sup>r</sup> Gorham	ay	} ay	M <sup>r</sup> Ross	ay *
M <sup>r</sup> King	ay		<i>Virginia</i>	
M <sup>r</sup> Dane	ay		M <sup>r</sup> Grayson	no
<i>Connecticut</i>			M <sup>r</sup> Madison	ay
M <sup>r</sup> Johnson	ay	} ay	M <sup>r</sup> R H Lee	no
M <sup>r</sup> Cook	ay		M <sup>r</sup> Carrington	ay
<i>New York</i>			M <sup>r</sup> H Lee	ay
M <sup>r</sup> Smith	no	} no	<i>North Carolina</i>	
M <sup>r</sup> Haring	no		M <sup>r</sup> Blount	ay
M <sup>r</sup> Yates	no		M <sup>r</sup> Ashe	ay
<i>New Jersey</i>			M <sup>r</sup> Burton	ay
M <sup>r</sup> Cadwallader	ay	} ay	<i>South Carolina</i>	
M <sup>r</sup> Clarke	ay		M <sup>r</sup> Kean	ay
M <sup>r</sup> Schurman	ay		M <sup>r</sup> Huger	ay
<i>Pennsylvania</i>			M <sup>r</sup> Butler	ay
M <sup>r</sup> St Clair	ay	} ay	<i>Georgia</i>	
M <sup>r</sup> Irwine	ay		M <sup>r</sup> Few	ay
M <sup>r</sup> Bingham	ay		M <sup>r</sup> Pierce	ay
M <sup>r</sup> Armstrong	ay			

So it was resolved in the affirmative.

On motion of M<sup>r</sup> [Edward] Carrington seconded by M<sup>r</sup> [William] Bingham the motion of M<sup>r</sup> [Abraham] Clarke was postponed to take into consideration the following motion viz "Congress proceeded to the consideration of the Constitution for the United States by the late Convention held in the City of Philadelphia and thereupon resolved That Congress do agree thereto and that it be recommended to the legislatures of the several states to cause conventions to be held as speedily as may be to the end that the same may be adopted ratified and confirmed.



[Motion of Mr. Dane on new constitution <sup>1</sup>]

Whereas Congress sensible that there were defects in the present Confederation; and that several of the States were desirous that a Convention of Delegates should be formed to consider the same, and to propose necessary alterations in the federal Constitution; in February last resolved that it was ~~in their opinion~~ expedient that a Convention of the States should be held for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and the several legislatures, such alterations and provisions therein, as should when agreed to in Congress, and be confirmed by the States, render the federal Constitution adequate to the exigencies of Government, and the preservation of the Union.

And whereas it appears by Credentials laid before Congress, that twelve States appointed Delegates who assembled in Convention accordingly, and who did on the 17<sup>th</sup> instant, by the unanimous consent of the States then present in convention agree upon, and afterwards lay before Congress, a Constitution for the United States, to be submitted ~~with the~~ to a convention of Delegates, chosen in each State by the people thereof, under the recommendation of its legislature, for their Assent and ratification which constitution appears to be intended as an entire system in itself, and not as any part of, or alteration in the Articles of Confederation; to alterations in which Articles, the deliberations and powers of Congress are, in this Case, constitutionally confined, and whereas Congress cannot with propriety proceed to examine and alter the said Constitution proposed, unless it be with a view so essentially to change the principles and forms of it, as to make it an additional part in the said Confederation and the members of Congress not feeling themselves authorised by the forms of Government under which they are assembled, to express an opinion respecting a System of Government no way connected with those forms; but conceiving that the respect they owe their constituents and the importance of the subject require, that the report of the Convention should, with all convenient dispatch, be transmitted to the several States to be laid before the respective legislatures thereof therefore

<sup>1</sup> *Papers of the Continental Congress*, No. 36, III, pp. 375–376, in the writing of Mr. Dane. It is indorsed by Thomson as of October 1787, which is evidently an error.

*Resolved* that there be transmitted to the supreme executive of each State a copy of the report of the Convention of the States lately Assembled in the City of Philadelphia signed by their deputies the seventeenth instant including their resolutions, and their letter directed to the President of Congress.

[Report of Secretary of Congress on letter of T. Barclay <sup>1</sup>]

OFFICE OF SEC<sup>y</sup> OF CONGRESS

*Sept. 27 1787*

On the letter of 25 June last from M<sup>r</sup> T. Barclay containing observations on the Acco<sup>ts</sup> of Logoanere and C<sup>o</sup>

The Sec<sup>y</sup> of Congress reports that the letter of 25 June 1787 from M<sup>r</sup> T. Barclay with the acco<sup>ts</sup> which accompany it be transmitted to the Board of treasury.

[Letter of Secretary at War regarding troops <sup>2</sup>]

WAR OFFICE *September 26, 1787.*

SIR: I have the honor to submit to Congress a return of the number of noncommissioned officers and privates in the service of the United States, and a statement of the periods of their services.

As the greater part of the force on the Ohio will be discharged in the course of the ensuing year it is proper that Congress should be apprized thereof in order that such seasonable measures may be taken on the occasion as they shall judge necessary.

The troops on the frontiers possess a considerable degree of discipline, and a knowledge of the country which render their services more valuable than any new levies; therefore it would be advantageous to the public interest to retain as many of them in service as possible.

But perhaps the measure could be effected only by a new requisition on the same states which furnished the requisition of April 1785, namely, Connecticut New York New Jersey and Pennsylvania.

The spirit of desertion has deeply infected the two companies of artillery raised in Massachusetts forty eight having deserted since

<sup>1</sup> *Reports of Secretary of Congress, Papers of the Continental Congress*, No. 180, p. 62. According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 168, the letter and accounts were referred to the Board of Treasury. See September 25, 1787.

<sup>2</sup> *Papers of the Continental Congress*, No. 150, II, pp. 525-526, read September 27, 1787. The original return is on p. 521. See September 28 and October 3, 1787.

the latter part of April. The officers ascribe this unworthy conduct to a discontent on being retained in service while the other recruits engaged on the same conditions were disbanded by the resolve of the 9<sup>th</sup> April. To jealousies infused into their minds by bad citizens, and to an apprehension of being ill paid.

It may be observed that should Congress decide on a number of troops nearly equal to the present establishment, perhaps it might not be necessary during the next year to raise any more than would replace the men whose services would terminate.

I have the honor to be, etc.,

H KNOX

His Excellency

THE PRESIDENT OF CONGRESS

[Report of Commissioner of Army Accounts on petition of J. Huntington<sup>1</sup>]

The Commissioner of Army Accounts to whom was referred the Memorial of Jedediah Huntington late a Brigadier General in the Army of the United States begs leave to report, That the difficulty attending the Petitioner's and other Similar Cases has been that the General Officers not being Confined to one daily ration as was the Case with the regimental Officers, have drawn from the different Commissaries such quantities of provisions on Account, as they thought proper for the Supply of their respective tables; that but few of these Gentlemen have kept any regular Accounts of their drafts upon the Commissaries, and that the Accounts of such Issues are so deficient that the Commissioner for the department cannot furnish from his Office such information as will probably include the whole quantity drawn by each Officer.

Your Commissioner therefore by reason of this uncertainty declined the Settlement of these Gentlemens Accounts, none of which have been closed excepting those of General Thompson under the resolution of Oct<sup>r</sup> 3<sup>d</sup> 1786 and General S<sup>t</sup> Clair under that of February 3<sup>d</sup> 1787.

Your Commissioner begs leave further to report that General Huntington has rendered such an Account of the rations he has received as that he is ready to Attest to their Amount and that the

<sup>1</sup> *Papers of the Continental Congress*, No. 62, pp. 215-216, read September 27, 1787. See September 24, 1787.

above mentioned Cases being precedents in his favor his demand has no farther Objections than what they were attended with.

All which is Humbly Submitted

J<sup>NO</sup> PIERCE

OFFICE OF ARMY ACCOUNTS,  
September 25<sup>th</sup> 1787

[Report of Commissioner of Army Accounts on petition of M. Henderson <sup>1</sup>]

The Commissioner of the Army Accounts to whom was referred the Petition of Michael Henderson begs leave to report

That the Petitioner appears by a Certificate of William M<sup>c</sup>Donald late a Lieu<sup>t</sup> Col<sup>o</sup> in his Brittannick Majestys Service to have served in the Brittish Army in the late War against Canada which Service intitled him to have received by that Kings proclamation dated the 7<sup>h</sup> of October 1783, a grant for three Thousand Acres of land.

That the grants of this Land by the before mentioned proclamation, was Confined, within the bounds of the present States jurisdictions, and not within the Country now ceded by any of the States to the Union.

That the Petitioner has produced his own Attestation that he has not received this donation, but it is not in the power of Your Commissioner from any records or papers of the United States to determine who has or who has not received it.

That the time and Opportunity which have elapsed since the Petitioner became intitled to receive this Land are presumptive evidence, that there must have been a defect in his Title or that the whole evidence respecting it does not Appear.

That there is at present no precedent established by the United States in Congress Authorising such a donation, wherefore your Commissioner humbly Conceives that the Case of the Petitioner cannot be Considered by the Union and that the truth of it will be better understood and the Equity of it more properly Acknowledged

<sup>1</sup> *Papers of the Continental Congress*, No. 62, pp. 223-225, read September 27, 1787. According to indorsement the memorial was withdrawn at the request of the memorialist and the paper delivered on September 28, 1787. See September 21, 1787.

by the State where the Officers Lands in the same Service, were located and which is at present in possession of those Lands formerly Assigned for this purpose by the British Government.

Your Commissioner further begs Leave to report, that the Petitioner has no title to any Lands of Congress under any existing resolution by Virtue of his being an Officer of the United States, for the following reasons.

1<sup>st</sup> That tho' he has produced a Certificate that he served in the 9<sup>th</sup> Reg<sup>t</sup> of North Carolina regulars, it Cannot be found by any records Musters or Returns in the Public Offices that he ever received an Appointment or Commission from Congress.

2<sup>d</sup> That provided such an Appointment or Commission was granted, the term of his Services was not to the end of the War nor can it be found that he was discharged by Congress agreeable to the terms and intention of the Act of Sep<sup>r</sup> 16<sup>th</sup> 1776 granting Lands by the United States to the American Officers.

All which is humbly submitted

J<sup>NO</sup> PIERCE *Commiss<sup>r</sup>*

OFFICE OF ARMY ACCOUNTS

Septem<sup>r</sup> 26<sup>th</sup> 1787

[Report of Commissioner of Army Accounts on petition of W. Blodget<sup>1</sup>]

The Commissioner of Army Accounts to whom was referred the Petition of William Blodget late an Aid de Camp to General Greene begs Leave to report

That the Petitioner had a regular Appointment from General Greene as his Aid de Camp in 1776 and Continued to Act in that Capacity untill some time in June 1779; that on the 14<sup>th</sup> of that Month he received a Letter from the War Office in which he is Considered as having left the General's family, as the Board say, his *feelings* did not permit him to Act any further in that Line of duty; that he went immediately after this into the Sea Service and is returned in the Marine Office as a Chaplain to the Dean Frigate, in which Capacity he Continued for some time and never did duty after as an Aid de Camp or returned to the Army in any other station, that Major General Greene not being allowed by the Resolves of Congress more

<sup>1</sup> *Papers of the Continental Congress*, No. 62, pp. 219-220, read September 27, 1787. See September 21, 1787.

than two Aids, one of which was Major Burnet and the Petitioner the other, his place was Supplied immediately on his leaving General Greene by Lieu<sup>t</sup> Col<sup>o</sup> Morris who Continued as Aid to the General and with Major Burnet drew pay as such from that time to the End of the War, that the Appointment of Aids in the first years of the War was made by the Major General's themselves and the rank granted to them by the resolution<sup>1</sup> of June 5<sup>th</sup> 1776 Appears never to have been Confirmed by any Commission in the line untill the resolution<sup>2</sup> of February 21<sup>st</sup> 1780.

Your Commissioner therefore is humbly of Opinion that Considering the nature of the Petitioner's Appointment at the time of his leaving the General's family; his Entering into another Service; his place being Supplied by Col<sup>o</sup> Morris; and his never returning to his former Station, that he must be esteemed as Out of the Service after June 1779 and as not entitled to any benefits or Appointments that were granted to the Aids and the other Officers of the Line after that period.

All which is humbly Submitted

J<sup>N</sup><sup>o</sup> PIERCE *Commiss<sup>r</sup>*.<sup>3</sup>

OFFICE OF ARMY ACCOUNTS

September 26<sup>th</sup> 1787

FRIDAY, SEPTEMBER 28, 1787.

Congress assembled present New hampshire Massachusetts Connecticut New York New Jersey Pennsylvania, Delaware Virginia North Carolina South Carolina and Georgia and from Maryland M<sup>r</sup> [David] Ross.

<sup>1</sup> *Journals*, vol. V, p. 418.

<sup>2</sup> *Journals*, vol. XVI, p. 182.

<sup>3</sup> SEPTEMBER 27, 1787. According to the *Despatch Book, Papers of the Continental Congress*, No. 185, IV, p. 19, the following petitions were received:

Petition of Robert Harris, late a lieutenant in the Navy, for depreciation on his pay and for a share of the prizes taken.

Petition of David Barclay, late doorkeeper to the Court of Appeals, for payment of his salary.

Congress having received the report<sup>1</sup> of the Convention lately assembled in Philadelphia

*Resolved* Unanimously that the said Report with the resolutions and letter accompanying the same be transmitted to the several legislatures in Order to be submitted to a convention of Delegates chosen in each state by the people thereof in conformity to the resolves of the Convention made and provided in that case.

On a report<sup>2</sup> from the Secretary for foreign Affairs

Whereas doubts have in certain instances arisen whether foreign consuls residing in the United States are entitled to an exemption from such legal imposts and duties on Merchandizes by them imported for their own use as are payable by other subjects of their respective Nations

*Resolved* That no consuls of any Nation are entitled to such exemptions in the United States.

On the report<sup>3</sup> of a com<sup>o</sup> consisting of M<sup>r</sup> [Edward] Carrington M<sup>r</sup> [Dyre] Kearny and M<sup>r</sup> [James] Schurman to whom was referred a memorial of Adam Jamison

*Resolved* That the Commissioner of Accounts for the commissaries department be authorised and empowered to settle the accounts of Adam Jamison late deputy commissary of

<sup>1</sup> The report of the Convention, including the Constitution, the resolution of the Convention and Washington's letter, together with the resolve of Congress of September 28, 1787, were entered by Benjamin Bankson, in *Ratifications of the Constitution*, pp. 45-74. A copy of the Continental Congress imprint of the foregoing documents, signed by Charles Thomson, is wafered in between pages 98 and 99 of *Papers of the Continental Congress*, No. 122, which is deposited in the Department of State. This imprint is apparently from the shop of J. M<sup>e</sup>Lean, since most of the report of the Convention appears printed from the same type form as was used in the supplement to the *Independent Journal* of September 22, 1787. Copies of this imprint were transmitted by Thomson to the executives of several States with his circular letter of September 28, 1787, a copy of which is in *Papers of the Continental Congress*, No. 18 B., p. 129. See September 20, and 27, 1787.

<sup>2</sup> See below the entry from the *Secret Journal Foreign*.

<sup>3</sup> See August 2 and 9, 1787.

Issues upon the best evidence which in the nature and circumstances of the case can be obtained, it appearing to Congress that his books and papers have been lost and that the same happened through no fault or misconduct of him the said Adam Jamison.

<sup>1</sup> The Secretary of the United States for the department of Foreign Affairs to whom was referred a Letter <sup>2</sup> of 16<sup>h</sup> August 1787, from Sir John Temple, the british Consul General, having reported <sup>3</sup>

“That this Letter states, that a Relation at Canton, sent him in the Hope, lately arrived at this port, a small Box of Tea, and a piece of Silk for Lady Temple’s use, that he sent for them, and that the collector returned for answer, “that as there was no Treaty of commerce subsisting between his Britannic Majesty and these States, Sir John must pay the Impost or duties charged upon such Articles by the Government of the State of New York. Sir John requests to be informed, whether or not it be right and proper for him to pay the duties so demanded.

Two things in this Letter merit attention, *first*, the implied claim of the consul to an exemption from duties, and *secondly* the reason assigned by the collector for demanding the ordinary duties in the present case.

The respect due from Nation to Nation and from Sovereign to Sovereign, has introduced among civilized Nations the general custom and Usage of exempting Ambassadors and public Ministers from duties and

<sup>1</sup> From this point to the end of the day the proceedings were entered by Benjamin Bankson and attested by Charles Thomson in the *Secret Journal Foreign, Papers of the Continental Congress*, No 6, III, pp. 400-401. And also by Bankson (first paragraph by Thomson) in *Secret Journal, Foreign Affairs, Papers of the Continental Congress*, No. 5, III, pp. 1647-1649.

<sup>2</sup> See September 20, 1787:

<sup>3</sup> See September 26, 1787.



Imposts. The only question on this point which merits attention is, whether consuls are to be considered in this light?

In the Opinion of your Secretary consuls are not by the Laws or Usage of Nations considered or treated as public Ministers, and therefore that they are not entitled to the exemptions in question either here or elsewhere.

It would seem from the collector's answer that he considers the *other* consuls, between whose Nations and the United States Treaties of commerce exist, as entitled to such exemptions; and therefore your Secretary is inclined to think it would be expedient for Congress to correct that mistake. It appears from general experience that this privilege to Ambassadors and Ministers has produced many inconveniences, and is daily attended with great abuses; insomuch that some Nations have found it necessary to take measures to guard against and check them. In France it is usual for Ministers to report the Articles intended to be introduced, and the Government pays the duties to the Farmers, and a late instance of an Ambassador at the Court of London, importing 800 dozen of Wine at one time for the use of his Table; and shortly after disposing of 500 dozen of them to Grocers, has called the attention of the Ministry to the necessity of establishing regulations on the subject; but what they will be is not yet decided. If such inconveniences result from such a privilege to a few Ambassadors and Ministers, Men high in Office and reputation, and whose situations render such practices particularly indecent and improper; it is easy to foresee how much greater and more extensive evils would result from similar indulgences to the numerous consuls to be found in every commercial country disposed

to admit them. Whereupon Congress came to the following resolution”.

Whereas doubts have in certain instances arisen whether foreign consuls residing in the United States, are entitled to an exemption from such legal imposts and duties on merchandizes by them imported for their own use, as are payable by other Subjects of their respective Nations.

*Resolved* That no consuls of any nation are entitled to such exemptions in the United States.

CHA<sup>s</sup> THOMSON *Sec<sup>y</sup>*

[Reports of Secretary of Congress on two petitions and a letter <sup>1</sup>]

OFFICE OF SECRETARY OF CONGRESS

*Sep<sup>r</sup> 28, 1787*

On the petition of David Barclay stating that he attended the Court of Appeals 18 days in the capacity of door keeper and messenger and praying that Congress would be pleased to direct payment to be made to him for his service

The Sec<sup>y</sup> of Congress reports

That the petition of David Barclay be referred to the Board of treasury to take Order.

On the petition of Robert Harris late lieutenant on board the continental sloop of war *The Reprisal* stating his services and sufferings and praying to be allowed for the depreciation of his pay and that he may receive his share of the 14 prizes captured and sent to France by the vessel to which he belonged

The Secretary of Congress reports

That the petition of Robert Harris be referred to the Com<sup>r</sup> of Marine Accounts to report.

On the letter of the Sec<sup>y</sup> at War touching the expiration of the terms for which the troops in service were inlisted

The Secretary of Congress reports

<sup>1</sup> *Reports of Secretary of Congress, Papers of the Continental Congress*, No. 180, p. 63. According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 168, these papers were referred as indicated. See September 27, 1787.

That the letter <sup>1</sup> of the 26 from the Secretary at war to be referred to a com<sup>o</sup> to the Secretary at War to report.<sup>2</sup>

[Report of Secretary of Foreign Affairs on letter of Governor Hancock <sup>3</sup>]

## OFFICE FOR FOREIGN AFFAIRS

28<sup>th</sup> Septem<sup>r</sup>: 1787

The Secretary of the United States for the Department of foreign Affairs, to whom was referred a Letter from his Excellency the Governor of Massachusetts with the Papers that were enclosed with it, Reports.

That from the Letter and Papers above mentioned, it appears that one Reily commanding a Brig or Snow, sailed on the 17<sup>th</sup> March last from Dublin, bound to Baltimore, having on board above 100 Persons, of whom some were Passengers and others Redemptioners.

That during the Passage he treated some of them so cruelly as to occasion their Deaths.

That on the 14<sup>th</sup> July last he did (as he said for Want of Provisions sufficient to carry them to Baltimore) land about ninety of them of both Sexes at the Harbour of little River, where only one Family was settled, about 20 Miles from Machias, and that he detained from them a Variety of valuable Articles of their Property.

That the Necessity of receiving and providing for these People has occasioned much Trouble and Expence, and the Governor intimates that there is probably among them convicts and Persons whose Manners and conduct will be detrimental to the State.

That the said Vessel is probably now at Baltimore.

The Governor requests such Interposition and Order of Congress on the Subject, as to them may appear proper.

Your Secretary is at a Loss to discern the Principle on which the Interference of Congress in this Case is expected. Admitting all the Facts to be true, there can be no Question but that Captain Reily's

<sup>1</sup> See September 27, 1787.

<sup>2</sup> Report rendered October 2 and passed October 3, 1787.

<sup>3</sup> *Papers of the Continental Congress*, No. 81, III, pp. 5-8, read September 28 1787. It is indorsed, "9 Oct. Consideration of the report postponed. Delegates of Massachusetts to have a copy of it. See the Secret Journal Oct<sup>r</sup> 9<sup>th</sup> 1787." No entry regarding the matter is found in any of the *Secret Journals*. See September 20 and 21, 1787.

conduct is judiciously cognizable by the United States, inasmuch as he has committed Felony, if not Murder, on the high Seas, and is now probably at Baltimore within their Jurisdiction; but then Congress by their Ordinance<sup>1</sup> of the 5<sup>th</sup> April 1781 have provided, though perhaps imperfectly, for such Cases. And your Secretary thinks it seasonable to remind Congress of his Report<sup>2</sup> of the 25<sup>th</sup> September 1785 on the same Subject.

The Captain's Conduct as affecting Massachusetts may also be by their Laws a high Misdemeanour; but if that be the case, they have by the 4<sup>th</sup> Article of the Confederation a Right to demand the Offender from any of the States in which he may be found.

It is also clear that the Persons in Question have a Right to bring their private Actions against the Captain; but it does not follow from thence, nor can it be argued from the Confederation, that it would be proper for Congress by a particular Act to facilitate their doing it.

It does not appear to your Secretary that Congress can pass any *authoritative* Act on the Subject, and therefore he thinks it would not be proper for them to pass any. The Right of providing for the Trial of Piracies and Felonies committed on the high Seas, doubtless involves that of providing for the Apprehension of the Persons to be tried; and if their present Ordinance for that Purpose is deficient, nothing remains but to revise and make it effectual.

General Regulations extending to all cases of the same class or Denomination are to be preferred to occasional Interpositions, and Acts *pro hac Vice*; and therefore if the present Case should shew the Expediency of further Provisions, your Secret<sup>y</sup> thinks they should be *general* and not confined to this or any other particular Case.

All Circumstances considered, it would in his Opinion be expedient, that these Papers be delivered to the Delegates of Massachusetts, that they transmit them to the Executive of Maryland, with a Request that Cap<sup>t</sup> Reily be apprehended and delivered up to Massachusetts, as soon as a formal Requisition shall arrive for the Purpose,

<sup>1</sup> *Journals*, vol. XIX, pp. 354-356.

<sup>2</sup> The date of this report is September 29, 1785. See *Journals*, vol. XXIX, pp. 797-805.

that they also write to Governor Hancock informing him thereof, and advising that such Requisition be forthwith made and forwarded.

All which is submitted to the Wisdom of Congress.

JOHN JAY<sup>1</sup>

SATURDAY, SEPTEMBER 29, 1787.

Congress assembled. Present Massachusetts Connecticut New York New Jersey, Delaware Virginia South Carolina and Georgia and from New Hampshire M<sup>r</sup> [Nicholas] Gilman from Pennsylvania M<sup>r</sup> [Arthur] S<sup>t</sup> Clair from Maryland M<sup>r</sup> [David] Ross and from North Carolina M<sup>r</sup> [John B.] Ashe.<sup>2</sup>

[Report of Board of Treasury on letter of J. P. Jones and division of prize money<sup>3</sup>]

The Board of Treasury to whom was referred a Letter of the 18<sup>th</sup> July last from Captain John Paul Jones, together with a Report of the Commissioner of Accounts for the Marine Department relative

<sup>1</sup> SEPTEMBER 28, 1787. According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 168, the following letters were referred:

Letter of J. Adams to J. Jay, June 16, 1787, together with contract for a loan of one million guilders, was referred to the Secretary for Foreign Affairs to report. See September 20, 1787.

Letter of Nathaniel Mitchell to [President of Congress], September 26, 1787, read September 28, requesting to be paid as major of brigade, was referred to the Commissioner of Army Accounts to report.

<sup>2</sup> At this point the proceeding regarding the memorial of General Putnam, which appears on October 1, 1787, was entered and then crossed off.

<sup>3</sup> *Papers of the Continental Congress*, No. 138, I, pp. 649-680, read September 29, 1787. The enclosures of the report, A to G and No. 1, are on pp. 741-746, 705-710, 725-726, 727-736b, 737-739, 697-698, 699-700 and 681-683, respectively. There are also copies of a letter of Jefferson to the Board of Treasury, August 12, 1786, pp. 693-694; the bond of Jones, pp. 719-720; and a report of the Commissioner of Marine Accounts, July 5, 1787, pp. 715-717. The letter of Jones to the committee, October 4, 1787, replying to the criticism in the report, is on pp. 685-692. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 169, this report was referred to a committee consisting of Mr. Melancton Smith, Mr. Nathan Dane, Mr. William Samuel Johnson, Mr. Edward Carrington and Mr. Abraham Clark, which reported October 9 and the letter of Jones was referred to the Secretary for Foreign Affairs to report, which was made on October 8, 1789. See July 20, 1789.

to the Division of the Prize Money due to the Bonhomme Richard and Alliance

Beg leave to Report

That by the Act <sup>1</sup> of Congress of the 1<sup>st</sup> day of November 1783 it was *resolved* "That Captain John Paul Jones be and he is hereby recommended to the Minister Plenipotentiary of the United States at the Court of Versailles as Agent to solicit, under the direction of the said Minister, for payment and satisfaction to the Officers and Crews, for all prizes taken in Europe under his command; and to which they may be in any wise entitled; and that the said Captain J. Paul Jones shall receive the Commission, usually allowed, in such cases, out of the money which he shall recover as Agent for the said Prizes, in full compensation for his Services and Expences; *Provided always*, That the said Captain J. Paul Jones, previous to his entering on the execution of the said trust, shall give to the Superintendant of Finance, for the Benefit of all concerned, sufficient Bonds with good Security for the faithfull discharge thereof, and for the just payment of the same to the Superintendant of Finance to be by him distributed to those persons who may be entitled thereto."

That in consequence of the above Act, Captain Jones embarked for Europe about the month of November 1783, and commenced his Operations in France for the recovery of the Prize Money above mentioned, which appears to have been received by M<sup>r</sup> Le Ray du Chaumont, in consequence of his appointment for such purpose, by the Honorable M<sup>r</sup> Franklin then Minister Plenipotentiary at the Court of France.

That this Gentleman, having become insolvent, and under the Protection of an Arret de Surcheanse (or Letter of License) Captain Jones applied to the Government of France to undertake the settlement of the Prize Money due to the American Captors, and to make M<sup>r</sup> Chaumont answerable to the Crown for the Reimbursement of the same, which proposition appears to have been acceded to on the part of the Government.

That the division of the Prizes which took place in consequence of it, is stated to have been made, agreeably to the Ordinance of his most Christian Majesty of the 28, March 1779; notwithstanding the express declaration of Captain Jones to the Marquis de Castries Minister of the Marine of France that y<sup>e</sup> Force he Commanded was under the

<sup>1</sup> *Journals*, vol. XXV, pp. 787-788.

*Commission Laws and Flag of the United States*; that the Officers and Men were engaged under his Command *as in the American Navy*; and that he received his Orders as an *American Officer* solely from the Minister Plenipotentiary of the United States at the Court of France.

The Board find, that Captain Jones has deducted out of the Prize Money by him received the sum of Thirteen thousand two hundred and ninety one Livres five sous and six deniers which exceeds, by Six thousand and forty two livres eleven sous eight deniers, the sum to which he is entitled agreeably to the established Rules of the American Navy.

That this difference arises from his share of Prize Money being estimated on the Ship *Bonhomme Richards* apportionment (being 132.912. 5<sup>s</sup>. 8<sup>d</sup>. Livres) instead of the Mass of the Monies, appropriated to the two American Ships under his Command, as will appear by the following Statement.

By the Resolve <sup>1</sup> of Congress of the 6<sup>th</sup> of January 1776, it is declared, “that when two or more armed Ships are in Company at the time Prizes are made, two twentieths of their Value shall be divided equally amongst them.”

On this Principle the division would have been as follows,

Aggregate Value of the Proportion struck to the <i>Bonhomme</i>			
Richard, and Alliance.....	192. 943.	10.	8
From which deduct the sum charged by Captain Jones on			
account of Expences.....	47. 972.	11.	0
	<hr/>		
Nett sum remaining to be divided.....	144. 970.	19.	8
	<hr/>		
Two twentieths of the above to be divided betwixt the Com-			
manders of the American Ships is.....	14. 497.	1.	11
of Course the moiety is Captain Jones true proportion.....	7. 248.	10.	10
Difference betwixt this sum and what Capt <sup>r</sup> Jones has			
deducted on account of his share is.....	6. 042.	14.	8
	<hr/>		
	13. 291.	5.	6

The difference betwixt the sum retained by Captain Jones, as his share of the Prize Money and what he is entitled to agreeably to the Ordinances of Congress, is one of the objections made by the Commissioner of Marine Accounts in his Report to this Board of the 5<sup>th</sup> of July 1787, on the Division of the Prize Money made in France; it observable, however, that the excess is stated by that Officer to be

<sup>1</sup> *Journals*, vol. IV, pp. 36-37.

only about 3.600. Livres; the difference betwixt the two Statements arises from the Commissioners estimating Captain Jones Share on the Net aggregate sum apportioned to the Ships Bonhomme Richard, and Alliance, without deducting from it the sum charged by Captain Jones on account of his expences, of which, as one of the Captors he ought, on equitable principles, to bear a share.

In Answer to the Commissioners objection it is observed by Captain Jones, in his Letter to the Board of the 21<sup>st</sup> of August last (Copy of which is herewith transmitted) That he was not permitted to make the division; that it was made by the Court of France; and that in consequence of it the sum of Livres 13.291. 5<sup>s</sup>. 6<sup>d</sup>. was assigned to him, as his share of the Prize money.

However justifiable the Government of France might be, in making a division of the Prizes, which were captured under the Flag, and Commission of the United States; and in subtracting the sum said to be due to the French Volunteers, serving on board the Bonhomme Richard; there could not, in the opinion of this Board, be any possible pretence for entering into a Subdivision of the Proportion which was assigned to that part of the Crew who were either Americans, or Foreigners not subjects of France.

The proportion assigned to the Bonhomme Richard was	Livres 132. 912: 5:8
From which was deducted on account of French Subjects serving on Board	48. 861:13:7

Leaving to be divided amongst the American part of the Crew no more than	84. 051: 2:1
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On this part of the Prize Money a division appears to have been made in France; in which the share assigned to Capt<sup>n</sup> Jones is (as before stated) taken from the whole proportion assigned to the Bonhomme Richard, whilst that of the American Captors on board that Ship is estimated on the balance assigned to the American part of the Crew, after making the deduction above stated on account of the French Volunteers.

For what purpose this Subdivision of the Prize Money was made in France, the Board do not take upon themselves to determine. The Government of France had no right to enter into this detail, or interest in doing it; none of the Captors were entitled to receive the money in France; neither could it facilitate the subdivision of the Shares which the American Captors were entitled to; since the distribution of them was, by the Resolves of Congress, to be made in this Country; A new



apportionment must necessarily take place, in which the sums assigned to the *Bonhomme Richard*, and *Alliance* will form one mass; and the Shares of the Officers and Men of both Ships be ascertained, agreeably to the Rules of the American Navy. The Plea made by Captain Jones, that the Share, which he has deducted from the Prize Money was made by the Government of France, without his Agency, does not appear to have sufficient weight; he was certainly not bound to abide by it, or to deduct the amount from the Prize Monies received by him; but on the contrary, as well from the Rules of the American Navy, as from the Obligation he was under to pay the whole of the Monies he received into the Treasury of the United States, he ought not to have done it.

In addition to what we have before observed, it is to be remarked, that, though the division of the Prize Money, to the American Captors is stated at the head of the Roll of the *Bonhomme Richard* to have been made, conformably to the Ordinance of his most Christian Majesty of the 28<sup>th</sup> of March last; this circumstance (on an examination of that Ordinance) will be found not to be the case, as will appear by a Report to this Board, from the Comm<sup>r</sup> of Marine Accounts of the 27<sup>th</sup> of August last; copy of which, together with a translation of such parts of the Ordinance aforesaid, as relate to the matter in question, is hereunto annexed. Instead of an adherence either to the Rules of the French, or American Navy in dividing this Prize Money; an Arbitrary mode of division adapted to the present occasion appears to have taken place, partaking in some respects of the American, and in others, of the French Rules for regulating the division of Prizes. (Vide Letter of Commissioner of Marine Accounts marked B.)

The consequences resulting from this mode of division are: That the Shares allotted to the French Captors (by having respect to the number of men and weight of Artillery) are greater than they would have been if in consequence of their serving under the American Flag, a division had been made by the mass, agreeably to the rules of the American Navy; and that, the Share deducted by Captain Jones exceeds, in the proportion above stated what, agreeably to the regulations abovementioned, he was entitled to.

Amongst many instances, which might be pointed out in proof of the first observation, we shall confine ourselves to a single, but remarkable case; that of M<sup>r</sup> de Chamiliad who is stiled Commandant of the

Volunteers on board the *Bonhomme Richard*, whose share (as rated in France) is fixed at the sum of

Livres ..... 8. 179: 4<sup>s</sup>:9<sup>d</sup>.

whilst that of the Captain of the Frigate *Alliance* (who is entitled to an equal share with Captain Jones) estimated on the mass assigned to the American Ships

would be only ..... 6. 042: 14<sup>s</sup>:8<sup>d</sup>.

making a difference in favor of the former of no less than one quarter part.

The Board, being directed by the Resolve <sup>1</sup> of the 7<sup>th</sup> June 1786 to cause a division of the Prize Monies, received by Captain Jones, to be made amongst the Captors, agreeably to the Ordinances of Congress, it becomes their special duty to state, in a particular manner, the first deviation relative to this Object, in order that, as far as circumstances will admit, Justice may be done to the American Captors in general; and that the errors of the first division may be guarded against, in that of the Prize Money due to Captain Jones's Squadron from the Court of Denmark. By the letter of that Officer to Congress of the 18<sup>th</sup> July last; he supposes it will be the intention of that honorable Body, that this division should be made on the same principles, as were adopted in France; but as the operation of those principles, if extended to the Denmark Prize Monies, will augment the injury already sustained by the American Captors, it is not to be presumed that the United States in Congress would dispense with the established rules of the American Navy, under which the American Captors derive their right; supposing such an exercise of Authority to be proper on the part of Congress.

The amount of the Claim on the Court of Denmark, by the papers laid before Congress by Captain Jones, and referred to this Board, appears to be about £40,000 Sterling; so that in the same proportion, as the Division on the Prizes carried into France was

For the <i>Bonhomme Richard</i> .....	132. 912 Livres
<i>Alliance</i> .....	108. 892 “

that on the Prize Money claimed from Denmark would be

For the <i>Bonhomme Richard</i> .....	15. 045 Sterling
<i>Alliance</i> .....	12. 326 “

<sup>1</sup> *Journals*, vol. XXX, p. 333.

making a difference in favor of the *Bonhomme Richard* of no less than £2.719. Sterling, more than the *Alliance*; being near  $\frac{1}{5}$ <sup>th</sup> part more to the former Vessel than to the latter; and so in proportion to the Crew of that Ship, should the division be made on the same principles as Captain Jones share has been rated in France, as Commander of the *Bonhomme Richard*.

The Board beg leave further to observe, that the Injury sustained by the mode of division above stated is not merely confined to the Captors; by the Act<sup>1</sup> of Congress of the 30<sup>th</sup> Oct<sup>r</sup> 1776, the United States are entitled to one half of all the Merchantmen, Transports and Storeships, which are taken by any Ships of War, or Armed Vessels in their Service; of course, should the monies due from the Court of Denmark be recovered, and a division take place in the mode which has hitherto been adopted, the United States would surrender a rightful claim on account of their Interest, in the above Prize Money of no less than *Twenty thousand Pounds Sterling Money of Great Britain*.

It becomes our duty to insist particularly on this right of the United States, as Captain Jones in his Letter<sup>2</sup> to this Board of the 13<sup>th</sup> of August 1786, observes "that his most Christian Majesty has generously renounced in favor of the Captors the proportion of the Money arising from the Merchant Prizes, which by the laws of the American Flag, he might have retained." On what principles, such right could be founded the Board are at a Loss to discover; Captain Jones (as before stated in this Report) expressly declares, that the Squadron under his Command was under *Commission, Laws and Flag* of the United States; that the Officers and Men were engaged under his Command, as in the American Navy; and that he received his orders as an American Officer from the Minister of Congress. If this is the case (which the documents hereafter mentioned confirm incontestably) no other Sovereign power than that of the United States can claim a right, which has no other foundation than the Act of Congress, expressly reserving a Moiety of prizes of certain descriptions to the United States.

The Documents we refer to are marked, C. D. E; and accompany this Report. The two first are copies of a Letter from the Board of Admiralty to the Hon'ble. Doctor Franklin dated at Philadelphia Jan<sup>r</sup> 2<sup>d</sup> 1781, proposing certain Queries relative to Cap Jones Squad-

<sup>1</sup> *Journals*, vol. VI, p. 913.

<sup>2</sup> Copy in *Papers of the Continental Congress*, No. 168, II, pp. 375-378.

ron; and the Answer to them; the latter a Copy of an Instrument stiled a Concordat, or an Agreement entered into betwixt the Commanders of the several Ships, relative to the division of Prize Money &ca.

In answer to one of the above Queries, relative to the Prize Monies, D<sup>r</sup> Franklin writes, "that no Agreement was made by him or any person in his behalf relative to the division of Prizes which should be made by it; that he supposed however the division of the Prizes (if any should be made) would be agreeably to the Laws of France, or of America as should be most equitable; but that the Captains before they sailed entered into an Agreement called a Concordat, by which they agreed to divide according to the *Rules of America*, as they acted under *American Commissions and Colours*."

The purport of the Articles in the Concordat, relative to the Division of Prizes are,

"That in ascertaining the Aggregate of the Prize Money, due to the Officers and Crews of the several Ships, the Laws of the American Flag should prevail."

"That the proportion of the different Ships should be regulated by the Minister of the Marine of France, and the Minister Plenipotentiary of the United States at that Court; and"

"That the Shares of the Several Captors should be afterwards determined agreeably to the Laws of the respective Nations."

If the circumstances attending the outfit of this Squadron are considered perhaps no better principles for the division of the Prize Money, could have been agreed on than, what this Instrument prescribes. It is most probable that this Agreement was known, as well to the then Minister of France, as to Doctor Franklin; it certainly was to the latter; because he mentions it, in his Letter to the Board of Admiralty above referred to. Although therefore he may never have directly express his approbation, his acquiescence must be considered as a Sanction to it.

No notice however appears to have been taken of this Instrument in the correspondence, betwixt Captain Jones, and the Minister of the Marine of France; relative to the Prizes carried into the Ports of that Kingdom, neither has any attention been paid to it, in the division, which has taken place of those Prizes.

How far the Advances stated to have been made by the Government of France, for the outfits of the Squadron may induce the United States to relinquish any part of their right to a Moiety of the Mer-

chant Prizes, Congress, on an investigation of the circumstances, attending this expedition, can best determine. One of the principal objects intended by it on the part of Doctor Franklin, and Captain Jones, is declared to have been the prospect of relieving a number of American Seamen, who were Prisoners in England, by the Exchange of such British Seamen, as might be Captured during the Cruize. This will appear from Captain Jones Letter to the Marquis de Castries of the 26<sup>th</sup> March 1784, and from Doctor Franklin, to Captain Jones of the 25<sup>th</sup> of the same month, Extracts of which (marked F. G.), accompany this Report.

When it is considered therefore, that this object was not answered by it; but that the American Captors are already charged with their proportion of the maintenance of the Prisoners in Holland, although they were all exchanged for French Seamen; And further that whilst the United States (by permitting the Alliance to join the Squadron) experienced great loss and Dissapointment through the want of Clothing, and other Stores expected in her, and her Convoy, the powerful diversion of the British Naval Force, occasioned by the operation of this Squadron, proved highly beneficial to France; the advances, stated to have made by the French Government will scarcely be considered, as an equivalent for the circumstances above stated. It is necessary, however, to observe on the subject of these advances, that this Board have no other Documents, than the information given to Captain Jones in France, that Five hundred thousand Livres, had been advanced to Mons<sup>r</sup> le Ray de Chaumont for that object. Certain however it is, that Mess<sup>rs</sup> Gourolade and Moylan (who acted as M<sup>r</sup> Chaumonts' Agents, in fitting out the Squadron) have received from M<sup>r</sup> Grand Banker to the United States in Paris, no less a sum than One hundred and sixty one thousand Livres; for what purpose the Accounts of M<sup>r</sup> Grand do not shew; neither has M<sup>r</sup> Barclay, the Commissioner for settling the Foreign Accounts, in Europe, made any settlement with that house (who were lately his Partners, and are now said to be insolvent) on account of these advances; The presumption is, that the whole or part of these Monies, wherewith they are debited, may have been made for Captain Jones' Squadron; in which case, admitting Captain Jones' information to be well founded M<sup>r</sup> Chaumont must have had double advances for the same object.

As to the Charge made by Captain Jones for his expences amounting to 47.972:11: Livres; instead of a Commission of 5 per Cent on the sum

he received, (which would amount only to 9.647:3:) Livres, The Board beg leave to observe; that the Act <sup>1</sup> of Congress of the 3<sup>d</sup> Nov<sup>r</sup> 1783; under which Captain Jones derives his Authority, declares "That he shall receive the Commission usually allowed in such Cases, out of the Money which he shall recover as Agent for said Prizes, in full compensation for his services and Expences." The evident intention of this clause of the Act appears to be, to ascertain by some rule the compensation, which Captain Jones was to receive for undertaking this Business; and not to leave it altogether Indefinite; which would be the case, if Captain Jones was allowed his expences and afterwards to exhibit a Claim for his Services, and if once the Principle of a Commission is departed from, the latter is certainly as reasonable a Claim, as the former.

The point which, in the opinion of this Board, appears necessary to be ascertained, is; What is the usual Commission allowed to Agents for the Recovery of Prize Money, in cases where there is a Probability of Controversy; for such was the situation of the Prize Money, which Captain Jones was appointed to recover. From the best Judgement we can form, a Commission of 5 Per Cent, on the Sum recovered, would (we presume) be estimated an adequate Commission; this is the Commission usually allowed to Factors or Agents, who solicit and prosecute the recovery of Debts either in this Country or Europe; and exceeds considerably what a Prize Agent would receive who had no further trouble than to receive, and pay monies, arising from the Sales of Prizes, put into his hands.

It is observed by Captain Jones in answer to the Objection made against his charge for expences by the Commissioner of Marine Accounts, that such a case as that of the Prize Money he was appointed to recover, never existed; and, therefore, that the Commission above stated ought not to be applied to him; to support this opinion, a stress is laid by that Officer on the circumstances attending the outfit of that Squadron under his Command, and on his own Character and Situation as Agent; but this Objection if admitted, would involve an absurdity in the Act of Congress, because these Circumstances were known to that honorable Body, at the time the Act respecting Captain Jones' appointment was past, and it cannot be presumed, that the Commission intended by it had in Contemplation, a case which never existed. This construction therefore ought not to be admitted, if a

<sup>1</sup> The date for this Act should be November 1, 1783. See note 1 on p. 556.

more reasonable one can be given to the Act above stated; which can easily be effected, if we suppose (what we presume was the case) that by the expression of, "the Commission usual in such Cases", Congress had only in View the Commission, usually given for the recovery of a Claim in Controversy; which was the case in question. No two cases, in which the recovery of property is concerned, can scarcely ever be similar, either as to the origin of the Claim, or the Character of the party employed to solicit it; if therefore, Captain Jones objection to the Commission allowed to him by the Commissioner of Marine Accounts has any weight, it will equally apply to every Agent, who is employed to recover a Claim where the Compensation (instead of being precisely fixed) is declared to be the usual Commission.

In fixing Captain Jones Commission, Congress could not have considered his Character, in any other point of view than that of an Agent, appointed to recover Prize Money. By the Act for his Appointment, he is authorised to receive the Commission usual in such Cases, as Agent for the Prizes; and is directed to give Bonds for the faithful discharge of his Trust, for the benefit of all concerned; and, although the United States in Congress may have conceived themselves authorised, from the peculiar Situation of the Prize Money, due to Captain Jones' Squadron, to appoint an Agent for its Recovery, without the concurrence of the Claimants, it does not appear reasonable, to suppose that they meant to subject the Captors to a greater Charge for soliciting this Claim, than is usually given for the recovery of contested demands. The present charge of Captain Jones for his mere expences exceeds a Commission of Twenty five per Cent, and it appears from his Letter to the Board of the 13<sup>th</sup> August 1786, that he conceives himself entitled to a still further compensation on account of his Services.

Whether or not a Commission of five per Cent on the Prize Money recovered by Captain Jones in France, is an adequate compensation for his time and services is not, in the opinion of the Board, the point in question. Captain Jones' engagement must be considered in the nature of a Contract, with the United States, in behalf of the Captors; and although, in the execution of it, he may not have derived the advantages, which were expected at the time it was entered into, (whatever Claim he may have, on the generosity of Congress) he certainly has no further just demands, against the United States or the Captors, than the Commission of five per Cent, as allowed to him by the Report of the Commissioner of Marine Accounts.

Captain Jones in his Letter of 13<sup>th</sup> August 1786, says, "that at the time his appointment was made it was not expected it would employ a space of more than Six, or at the utmost, of Eight Months;" if this had been the Case, the Amount of his Compensation, agreeably to his Contract (supposing the usual Commission to entitle him to five per Cent) would have been no less than £.2000 sterling Money of Great Britain, estimating the amount of the Prizes carried into Denmark and France at no more than £.40.000 sterling, whereas the former alone is computed at that sum. This would have exceeded prodigiously any reasonable claim, which Captain Jones, could have exhibited against the United States or the Captors for his time and expences, attending the Business. Would Captain Jones however, in this case, have conceived himself bound to have been content with less than the usual commission as stipulated? he certainly would not, but have pleaded his Contract in justification of the Charge; and the validity of such plea could not have been denied; he might have said, (and with Justice,) that the surplus of the Commission was not more, than an adequate compensation for the risque he ran of having no compensation at all for his time and expences in this Negotiation; which must have been the case (agreeably to the Act <sup>1</sup> of Congress of the 3<sup>d</sup> of November 1783,) had he not succeeded in the recovery of any part of the Prize Money.

It is further to be considered, that Captain Jones' Interest as well as Reputation, was materially concerned in obtaining Justice for himself and the Officers and Crews of his Squadron; particularly, as by his own Act he agreed that the Prize Money should go into the hands of Monsieur Le Ray de Chaumont, through whose conduct in withholding the Monies received from the Sale of the Prizes, all the delay and injury sustained by the Captors, has certainly been owing. It is true, that Captain Jones declares in his letter to this Board above referred to, that; "By his Obedience to Doctor Franklins orders the Prizes had got under the graplings of Monsieur Le Ray de Chaumont, who had become a Bankrupt; and that, if that Minister who knew the circumstances of this affair, would have acted in it, there is no reason to doubt but that he could have brought it to a conclusion, with less trouble and expence than any other person." But though the latter part of Captain Jones' remark is probably well founded the former is certainly questionable: It appears by one of the Articles in

<sup>1</sup> The date of this Act should be November 1, 1783. See note 1 on p. 556.



the Agreement entered into and subscribed by the Commanders of the different Ships which composed Captain Jones' Squadron (which paper we have before referred to) that Captain Jones agreed "that the Prizes which might be made should be delivered to Monsieur Le Ray de Chaumont; and that he should be desired not to part with the Share of Prizes to come to the whole Crews, or any one in particular, belonging to the said Squadron, but in their favor or behalf: and to be answerable therefore in his own name." The Authority of Doctor Franklin as Minister of the United States at the Court of France, could go no further than to appoint M<sup>r</sup> Chaumont Agent for that proportion of Prize Money, which might accrue to the United States. It is by the agreement abovementioned only, that he was properly constituted the Agent for the Crews; and it must be presumed that Captain Jones' influence as Commander of the Squadron must have had considerable weight in determining this Agency. Can it therefore be reasonable, that he should not only be personally exempted from all expence whatsoever attending the recovery of this Money; but that he should subject the Claimants in general to the extraordinary expences, attending an Act, in which he must be necessarily considered as one of the principal Agents? That Doctor Franklin does not consider himself in the light which Captain Jones remarks (so far as it regards M<sup>r</sup> Chaumont's appointment) appears clearly from his letter to the Board of Admiralty above referred to, in which he says "that the Captains having made M<sup>r</sup> Chaumont their Trustee and Agent, they must apply to him for their proportions of the Captures."

The Circumstances above stated, and inferences obviously resulting from them will, we presume prove that Captain Jones has no actual Claim against the United States or the Captors for any further Compensation, on account of his Services in the Recovery of the Prize Money, than a Commission of five per Cent, whatever title he may have to the generosity of Congress; and on this last point, it becomes our duty to submit, an observation (which has been frequently suggested by this Board) that, whilst heavy and just demands against the Union remain, from the embarrassed State of their Finances, altogether unsatisfied, it would be improper for the United States in Congress, to make any grant of Money, under such circumstances as attend the case in question. If the sum charged by Captain Jones, on account of his Expences whilst in France is allowed (being, as stated by the Commissioner of Marine Accounts no less than thirty Eight thousand three hundred and twenty five Livres of France

beyond what he is properly entitled to) this sum must be considered as a Grant from the United States; as we conceive the Captors cannot with propriety be charged with more than a Commission of five per Cent, on the monies recovered, agreeably to the Contract made in their behalf with Captain Jones. It may further not be improper to observe, that if in this instance, the nature of Captain Jones' Contract and a regard to the Interest of the United States, as well as that of the Captors will not admit any further allowance; that in other respects of a pecuniary nature, Captain Jones has experienced the favorable disposition of Congress, by a distinguishing preference, over the other Officers of the American Navy, in the settlement of his Accounts and the payment of the balance found due thereon; the whole of which, instead of being paid in Certificates, as the other Officers of the Navy, has been long since discharged in actual Specie; as will appear by the annexed Report of the Commissioner of Marine Accounts, marked N<sup>o</sup> 1.

As to the charge made against that Officer by Captain Jones, "that his former Report was altogether partial, and drawn up without any regard to circumstances, or previous examination of the documents which accompanied his Accounts", the board are bound, in justice to the Character of the Commissioner to observe, that, in this instance, as in others, which have come under their cognisance he has conducted himself with that impartiality, as well as firmness, which it is the duty of every Public Officer to manifest in all his transactions; and especially on applications of a pecuniary nature.

On the whole the Board are of Opinion,

That Captain Jones should pay into the Treasury of the United States the sum of Thirty eight thousand three hundred and twenty eight Livres of France; being the excess of monies deducted by him out of the Prize Money received in France beyond the Commission of five per Cent on the said Monies; in order that the Commissioner for Marine Accounts may proceed to a division of the same, agreeably to the Ordinances of the American Navy.

That he should adjust with the Commissioner of Marine Accounts the Share of the Prize Money to which he is entitled as Commander of the *Bonhomme Richard*, agreeably to the said Ordinances and reimburse whatever sum he shall appear to have deducted from the Prize Monies received by him beyond the Share to which he is properly entitled.

That if when the Prize Monies received by Captain Jones in France shall have been distributed amongst such of the Claimants as shall apply for the same, within a reasonable period of time, a residue should remain unclaimed; it may *then* be proper to consider, whether Captain Jones should receive the whole or part of this residue, on account of any extraordinary expences he may have been at in prosecuting this Claim.

The Board are further of opinion, that, if it should be judged proper that Captain Jones should proceed to Denmark, in order to recover the Prize Money, due from the Government of that Country, the Public Interest renders it necessary, (from Circumstances which have happened since Captain Jones first Bonds were executed) that new Securities should be given for the performance of the Trust reposed in him. It may be further adviseable,

That a determinate Commission should be fixed on as a full compensation for his Service and Expences in this Business; and that the whole of the Monies which may be received from the Court of Denmark, after deducting the stipulated Commission, should without any further deduction whatsoever, be paid into the Treasury of the United States; in order that a division may be made of the same to the legal Claimants, agreeably to the Ordinances of the American Navy.

All of which is humbly Submitted.

SAMUEL OSGOOD  
WALTER LIVINGSTON  
ARTHUR LEE

BOARD OF TREASURY

September 28<sup>th</sup> 1787.

[Report of Board of Treasury on the requisition for 1787<sup>1</sup>]

“The Board of Treasury, to whom it was referred to Report a *Requisition* for the current Year, including one Years Interest on the Foreign Debt, and such part of the Principal as may become due in the ensuing Year; and providing for the Payment of one Years Interest

<sup>1</sup> *Papers of the Continental Congress*, No. 139, pp. 549–583, including annexes A, 2 and C, read September 29, 1787. A printed copy of the report is on pp. 587–598. The covering letter of the Board, also read, is in *Papers of the Continental Congress*, No. 140, II, p. 453. The report was made order of the day for Wednesday next. See July 14, October 5, 8, and 11, 1787.

on the Domestic Debt, in a mode most convenient to the States, and advantageous to the Union",

Beg leave with great Deference to represent to Congress,

That on an attentive Investigation of the modes, which have been hitherto proposed for the Payment of the Interest of the domestic Debt, it appears altogether impracticable, in the present state of the Federal Government to make the Interest, or Honor of the Union coincide with what the several States appear to judge for their convenience in this respect. The propriety of this remark will, we presume, appear from a statement of the subsequent facts, and the inferences obviously resulting from them.

The first attempt made by the United States in Congress to induce the several States, to provide means for paying part of the Interest on the domestic Debt, was the Requisition <sup>1</sup> of the 4<sup>th</sup> and 10<sup>th</sup> September 1782; by this, the States are required to furnish their several Quotas of *One Million Two hundred Thousand Dollars* to be applied for the purpose abovementioned; and license given to appropriate, in the first Instance, their respective Quotas towards the Payment of the Interest of such part of the Debt, as was due to their Citizens, previous to any part thereof being paid into the Public Treasury.

Without entering into a discussion how far the license given to the several States, by the foregoing Requisition, is warranted by the Confederation (a point which is probably very Questionable) we shall only observe, that notwithstanding the completion of it was again urged on the States, by the Act <sup>2</sup> of Congress of the 12<sup>th</sup> of October 1785, not more than Four hundred and Thirty five Thousand, Five hundred and Forty one Dollars was paid on it, to the 31<sup>st</sup> of March last; and that only by the States of Massachusetts, Pennsylvania, Connecticut and Delaware.

The second experiment for this purpose is the Requisition <sup>3</sup> of the 27<sup>th</sup> and 28<sup>th</sup> April 1784; by which (although the Estimate on Account of Interest on the Domestic Debt to the end of the Year 1783 was 1,970,760 Dollars,) the Sum actually called for on that Account was Six hundred, and Seventy seven Thousand, Seven hundred, and Forty four Dollars, forty three ninetieths: This Sum the States had a right to pay in Indents of Interest on the Domestic Debt, certified to the end of the Year 1782.

<sup>1</sup> *Journals*, vol. XXIII, pp. 545-546 and 564.

<sup>2</sup> *Journals*, vol. XXIX, pp. 823-824.

<sup>3</sup> *Journals*, vol. XXVI, pp. 297-309.

The Requisition <sup>1</sup> next in course is that of the 27<sup>th</sup> of September 1785; by which the Sum required for Interest on the Domestic Debt was Two Million, eight hundred, and five Thousand Seventy one Dollars, and nine ninetieths. This Sum the States were admitted to pay in Indents of Interest, certified to the end of the Year 1784.

By the last Requisition <sup>2</sup> of the 2<sup>d</sup> of August 1786 the Sum required for Interest on the Domestic Debt, was One Million, six hundred, and six Thousand, five hundred and sixty Dollars 65/90ths, which Sum, the States had a right to pay in Indents of Interest, certified to the end of the Year 1785; So that the Summary of the Requisitions on Account of Domestic Interest, from the 4<sup>th</sup> of September 1782, to the 2<sup>d</sup> of August 1786, is as follows,

By the Requisition of 1782.....	1, 200, 000.
By that of 1784.....	667, 744. 43
By that of 1785.....	2, 805, 071. 9
By that of 1786.....	1, 606, 560. 65

Making in the whole the Sum of..... Doll<sup>s</sup>.. 6, 279, 376. 27

It is with regret, that we are constrained to observe, that to the 31<sup>st</sup> of March last, the Aggregate Payments, on account of these Requisitions do not appear from any Documents in the Treasury Office to

exceed the Sum of.....	1, 003, 725. 57
Leaving a Balance still due of no less than.....	5, 275, 650. 60

Dollars..... 6, 279, 376. 27

If from this Balance is deducted the sum of D<sup>rs</sup> 1,606,560. 65/90, (being the Sum required for Interest by the Requisition of the 2<sup>d</sup> of August last; and for which no Indents of Interest, have as yet been issued) the remainder being 4,672.815. 52/90 Doll<sup>s</sup> is still in circulation, either in Indents of Interest issued by the United States, or by the several States, in pursuance of the license given to them by the Requisition of the 10<sup>th</sup> of September 1782; of which last, no Returns have been made to this Office.

For this large Sum of Public paper there is no reason to presume, that Funds, in the least degree adequate, have been provided by the several States.

<sup>1</sup> Journals, vol. XXIX, pp. 765-771.

<sup>2</sup> Journals, vol. XXXI, pp. 461-465.

Having compared the aggregate of the Indents which have been issued, with the receipt of them in the General Treasury, it may not be amiss to examine the particular States, by which Payments of Indents have been made; because, by this review, the disposition of the several States, to provide Taxes for the purpose of defraying the Interest of the domestic Debt, may with a considerable degree of Accuracy be ascertained.

On the Requisition of 1782 there has been paid to the 31<sup>st</sup> day of March last by

The State of Massachusets.....	192, 000	
State of Connecticut.....	46, 741. 10	
Pennsylvania.....	180, 000.	
* Delaware.....	16, 800.	
	<hr/>	435, 541. 10

On the Requisition of 1784

By Massachusets.....	30, 963. 45	
Connecticut.....	10, 989. 71	
New York.....	36, 933. 67	
Pennsylvania.....	53, 441.	
Delaware.....	10, 011. 69	
Virginia.....	38, 231. 25	
	<hr/>	180, 571. 7

On the Requisition of 1785.

By the State of New York.....	111, 195.	
Pennsylvania.....	200, 824. 70	
Delaware.....	11, 064. 36	
Virginia.....	64, 529. 24	
	<hr/>	387, 613. 40

On the Requisition of 1786.

No State having complied with the terms of it.....	000.	
	<hr/>	
So that the Total receipt of Indents to the 31 <sup>st</sup> of March last, is as above stated.....		1, 003, 725. 57
*Since this Report was drawn up, the State of New York has paid on the Requisition of 1782.....		54, 000.

Hence it appears that (exclusive of the extreme inequality in the Payments of Interest on the domestic Debt) there never has been at any one period a Majority of States disposed to collect Taxes for the Payment of this Interest (notwithstanding the advantageous Terms

on which such Payments might have been made) and that this disposition, has been diminishing so fast, that on the Requisition of 1785, scarcely any Payments of Indents have been made to the General Treasury; and that no State whatsoever, has complied with the Requisition of the 2<sup>d</sup> of August last, so as to provide adequate Funds for their respective Quotas.

The United States in Congress, having however judged it advisable, to continue the Requisition for Interest on the domestic Debt, it becomes the duty of the Board, to suggest for this purpose, what appears most conducive to the Interest and Honor of the Union.

Two modes only can be devised for Payment of the Interest on the Domestic Debt, so that every Public Creditor may have his Interest ascertained, and regular documents preserved thereof at the General Treasury.

The first is, by an Issue of a Paper Medium for the Payment of the Interest so certified; and making the same receivable as Specie, in all the general Taxes.

The second; by requiring of the several States their respective Quotas for the purpose abovementioned in Gold, or Silver Coin.

The first mode (which is in fact the issuing of Indents) has been already put in practice; and the result has proved, that the several States do not judge it sufficiently convenient, to induce them to comply with it; at least, though some of them have past Acts in apparent conformity to the Requisitions, very few of them have taken measures to collect by Taxes, the Indents issued in pursuance thereof.

The State of Virginia indeed by the Returns in this Office, appears to have collected on the Requisition of 1785, by Taxes on the 1<sup>st</sup> of January last, more than all the other States in the Union (although the whole Sum collected, for want of a sufficient Accompaniment in Specie, is not yet paid into the General Treasury,) and the States of Pennsylvania and New York, have it is presumed, a sufficient number of Indents to discharge their several proportions of the Domestic Interest; But this (as to the two States last mentioned) arises from an Assumption, of a considerable part of the Capital of the Domestic Debt, and not by the ordinary mode of Taxation.

If then it shall appear, that the continuation of the issue of Indents, is not beneficial, to the Domestic Creditors at large (for whose relief it was calculated,) and that it is injurious to the Public Interest, we presume that Congress will not judge it advisable to continue it; in which case the Sum adequate to the discharge of the Domestic In-

terest, as well as what is requisite for the other Exigencies of Government for the Year 1787; must, necessarily, be called for, in Specie.

That it is not beneficial to the Domestic Creditors at large, will appear clearly from the following Circumstance.

In the Month of April 1784, the market price of the Domestic Debt (without computing Interest, for which the Purchasers make no allowance) was about Five shillings in the Pound; At present it is about half that Sum. On these principles, the following statement, will shew the Loss sustained by a Person then possesst, of One hundred Pounds Capital of the Domestic Debt, and still continuing to hold it.

£100 Capital of the Domestic Debt in the Year 1784 a 5/ for 20/ is----	£ 25.
4 Years average Interest ou D <sup>o</sup> in Indents of Interest, issued in pursuance of the Requisitions of 1784 and 1785, sold for 8/ for 20/-----	9. 12
Value of the Principal in 1787 at 2/6-----	12. 10
Loss to the holder-----	2. 18
	£ 25.

Which is about 12 Per Cent diminution on the Value of the Capital. This Estimate indeed is made on terms more favorable to the Creditors in *Theory*, than it would be found in Practice; for the Average Interest on the Domestic Debt, to the end of the Year 1785, would not be 4 Years: Neither could Indents be generally negotiated at 8/- in the Pound; they fell much below that Price, soon after those of 1785 were issued, and at present they are from 2/9 to 3/- in the Pound.

This loss indeed might not be sustained by Persons who are skilful in their Speculations, on the Public Debt, since by a quick transfer of their Property on it, they might in a great degree avoid it; But this by the bona fide holder, or original possessor of the Debt, could not be done, and for the relief of such, more than of the former class, we presume the Public Arrangements, for the Payment of the Domestic Interest, ought to be calculated.

That the continuation of the system of issuing Indents is injurious to the Public Interest; will appear clearly from the following Considerations.

1<sup>st</sup> Because it is attended with a certain and heavy expence in preparing and issuing the Bills, and in preserving the proper Checks, so as to detect Counterfeits, and to prevent abuses, in the Officers, entrusted with their issue.

2<sup>nd</sup> Because in it's operation, it delays, as well as diminishes the Payment of Specie, into the Public Treasury; as the Indents, from the



depreciated Value, are sure of finding their way into the State Treasuries; whilst the Gold and Silver (though it may be actually paid by the People) lingers in the hands of the Collectors, for the purposes of Speculation.

3<sup>d</sup> Because where the Payment of Indents, into the General Treasury, is not limited to a stated, and reasonable period (as is the case of the Requisition of September 1782, and April 1784) it operates as a Premium to those States, who may Procrastinate the Completion of their Quotas: The Payments made by the States of Massachusetts and Pennsylvania, on the Requisition of 1782; are a full confirmation of this remark, as the Interest paid in the former State, was very little below the Par of Specie, and in the latter, at no more, than 25 per Cent discount; whilst the whole Arrearages of those Requisitions, which are payable in Indents, may *now* be discharged, by the delinquent States, at a discount of at least, 80 per Cent; that is four shillings in the Pound.

4<sup>th</sup> Because, where to guard against this evil, it is declared, (as in the Requisition of 1785 and 1786) that the Indents, not collected by a stated period, should not be received, at the General Treasury, and that the same, should be secured by proper Funds; it creates a disposition in the several States (who may be so delinquent) to withhold all Payments whatsoever of Specie, from the General Treasury, to compel a relinquishment of those Principles, whose operation they feel to be inconvenient. And Lastly, Because it revives, and gives a Sanction to the issue of an unfunded Paper Medium, the evils of which have been so severely felt, throughout the Union.

It may be said, that the Sum of Specie which is necessary for the Interest of the Domestic Debt, cannot with any prospect of success, be expected from the States, in addition, to what is indispensibly requisite for the support of the Civil Establishment, and Foreign Debt; but this objection (as will appear from the great Balance, still due from the States) will equally apply against calling for it *even* in that mode; and of course operate against any Requisition whatsoever, on account of Domestic Interest.

For the reasons above stated, the Board have judged it adviseable, to submit to the consideration of Congress the annexed Requisition, in which the Sum necessary for the Domestic Interest, is required in Specie.

This Sum estimating the Domestic Debt, as it was computed by the Register of the Treasury, on the 31<sup>st</sup> of March last, will amount to 1,700,407 Dollars.

To facilitate the Payment of it, as far as practicable; the Board have judged it necessary, to take a review of the Amount in Specie, which has been required of the several States by the existing Requisitions, and to compare with it, the actual Payments, on the appropriations, specified in the Annual Estimates, and the Sums now judged necessary for their Completion; in order, that the Surplus, of the Specie appropriations, (if any should appear) should be applied in aid, of the Sum necessary, for the Payment of one Year's Interest on the Domestic Debt.

This Surplus will appear by the abstract (marked C) to be no less than One Million, two hundred, Thousand Dollars; the principal part of which, arises from the Sum of 1,000,000 Dollars, required in the Year 1784, to discharge Debts contracted, and supposed to be due, in the Years 1782 and 1783; and which it was originally meant to Pay in Specie.

We cannot from any Documents in the Treasury Office ascertain, on what details, this Estimate was grounded: No anticipation has however been made on it, excepting the one stated by the late Superintendent of Finance, at the time of his resignation

Amounting to.....	Dollars..	153, 000.	
The Payments made by the Board under it are.....		38, 539.	
Arrears of Military Pay and Subsistence for 1782, and 1783 still due.....		39, 141. 33	
			230, 680. 33
Making in the whole, the Sum of Five <sup>1</sup> hundred, and thirty Thou- sand, six hundred, and eighty Dollars, which deducted from the 1,000,000 above stated: will leave a Surplus of.....			769, 320. 00

This Surplus may, in the judgment of the Board, be applied towards the discharge of the Domestic Interest, for the Year 1786; because, it is to be presumed, that the greatest part of the Debt it was meant to discharge, has entered into the Mass of the Liquidated Debt, and of course, should any Claims be now made under it, it would be proper to adjust the same on Uniform Principles.

The next Surplus of any considerable moment is an excess of Provision in the Monies required for the Payment of the Interest, and Installments, due on the Foreign Debt, owing to an error in former Estimates, as particularly explained in the Abstract abovementioned

Amounting to..... 333, 111.

<sup>1</sup> "Five" is evidently an error. Should be "Two."

The third Surplus, is an excess of Specie required by the Requisition of 1784, beyond, what the Aggregate of the Specie Appropriations, as specified in the Estimate on which that Requisition was founded, renders necessary.

The proportion of Specie by that Requisition being. 2, 003, 241.

And the aggregate of the objects for which actual

Specie, was necessary..... 1, 841, 779. 33

Leaving a Surplus of..... 161, 461. 57

So that the excess of Specie, required on former Estimates is..... 1, 263, 892. 57

If from this is deducted for short Provisions..... 63, 892. 57

The Balance which may be appropriated towards the Payment of

the domestic Interest for the Year 1786, will be..... 1, 200, 000. 00

By appropriating this Sum, to the Payment of one Year's Interest, on the Domestic Debt, the deficiency to be required of the States will be Five hundred, thousand four hundred and seven Dollars.

In the Estimate on which the proposed Requisition is founded, Congress will observe, that we have included a Sum adequate, to the discharge of the Debts, contracted in consequence of the Act<sup>1</sup> of Congress of the 20<sup>th</sup> October last, for augmenting the Troops, in Service, which by the Estimate of the Secretary at War marked N<sup>o</sup> 4 Amounts to Forty eight Thousand five hundred, and Forty eight Dollars.

The special Requisition, which was intended for defraying the Expences accruing from that Act, having been repealed, and the States permitted to pass any Monies, paid on Account of the same, to the Credit of the former Specie Requisitions, no appropriation has of course been made for it; the Requisition of the 2<sup>d</sup> of August last, having only provided for the Expences of the Military Establishment, as it then stood. A question may perhaps arise, whether it might be proper to appropriate the whole Specie surplus, as above stated, for the Payment of the Interest on the Domestic Debt, to the end of the Year 1786; since by comparing the aggregate of the Sums required of the States, on Account of Domestic Interest, with the Estimates on which those Requisitions are founded; the Provision for completing the Payment, of the Domestic Interest to the end of the Year 1786, will not appear adequate. But it is doubtful how far these Estimates

<sup>1</sup> Journals, vol. XXXI, pp. 892-893.

can be relied on. In some cases (as in the Requisition of 1782) Congress left it to the States to ascertain and pay the Interest, for which that Requisition is made; and even where such license was not given, some States in the Union have undertaken such Payments.

No proper Documents of the Interest so paid, has been returned to this Office; notwithstanding the several States, were by the Requisition of the 27<sup>th</sup> September 1785, required to make returns of all Interest paid by them respectively, to the first of January 1786; of course it is not yet practicable, to ascertain, with sufficient precision the commencement of the respective periods of Interest.

When the Returns are completed of all the Indents issued on the Requisition of 1785 (with which almost every State in the Union complied) it is probable, that a pretty accurate Estimate, may be made of the provision necessary, for completing the Payment of the Domestic Interest.

In the mean while the arrangements made by Congress, for the disposal of the Western Lands, by public Auction, or Contract, and by the Sale of the public copper, will not only absorb a Sum of Domestic Interest now due; but will lessen extremely, the Sum requisite, for that object in future; so that should there on a future Investigation, appear a deficiency, in the Provision made for Domestic Interest, to the end of the Year 1786; the States it is presumed (as they will become more able) will feel themselves better disposed to provide for it, than they appear to be at present.

All of which is humbly Submitted

BOARD OF TREASURY

September 28<sup>th</sup> 1787.

A

Estimate of the Monies requisite for the Services of the Year 1787.

For the Civil Department, as per abstract N <sup>o</sup> 1. heretofore transmitted.....	124, 161. 85
Military Department, as per Abstract N <sup>o</sup> 2. accompanying this Report.....	176, 757. 17
Geographers Department, as per Abstract N <sup>o</sup> 4 heretofore transmitted.....	9, 964.
Invalid Pensions agreeably to the Act of Congress, of April 1782, and June 1785, Estimated at.....	88, 000.
Contingencies, Estimated from actual Expenditures under that head in the Year 1786.....	20, 000.

Foreign Debt, for the payment of the principal and Interest due on the French and Dutch Loans in the Year 1788, which ought to be provided for, in this Year as per schedule of Foreign Loans.....Doll <sup>s</sup>		871, 622. 87
One Years Interest on the Spanish Loan due in 1788.....		8, 700.
One Years Interest on 186,427 Doll <sup>s</sup> Amo <sup>t</sup> of debt due to Foreign Officers.....}		11, 185. <sup>1</sup>
		891, 508. 52
Domestic Debt Liquidated as per Abstract N <sup>o</sup> 5 heretofore transmitted, Int <sup>t</sup> on 15,955,788 Dollars.....}		957, 342.
Loan Office Debt, Interest on 3,778,900 issued to 1 <sup>st</sup> September 1777.....}		226, 734.
Interest on 3,459,000 Doll <sup>s</sup> (Nominal) issued between 1 <sup>st</sup> Sept <sup>r</sup> 1777 and 1 <sup>st</sup> of March 1778 (which Sum when liquidated will amount to 2,558,572 Specie; but the Interest is payable in Nominal Value.....}		207, 552.
Interest on 5,146,330 Doll <sup>s</sup> Specie Value of Loan Office Certificates issued after the 1 <sup>st</sup> of March 1778}		308, 779.
		1, 700, 407.
Making in the whole the Sum of Doll <sup>s</sup> .....		3, 010, 798. 64

B.

By the United States in Congress Assembled.

SEPTEMBER 1787.

*Resolved*, That for the services of the present Year One thousand seven hundred, and eighty seven, it will be necessary, that the several States should pay, into the common Treasury, on or before the first day of \_\_\_\_\_ next, the Sum of \_\_\_\_\_ for the following purposes  
Viz<sup>t</sup>

For the Civil Department.....	124, 161. 85
Military Department.....	176, 757. 17
Geographers Department.....	9, 964.
Invalid Pensions.....	88, 000.
Contingencies.....	19, 000.

<sup>1</sup> 55/90 omitted.

## Foreign Debt.

For the payment of Interest on the French and Dutch Loans and two Installments of Principal on the French Loans becoming due 1788.....doll <sup>r</sup> ..	871, 622. 87	
Spanish Loan, One Years Interest, due thereon.....	8, 700.	
Debt due to Foreign Officers One Years Interest thereon.....	11, 185. 55	
		891, 508. 52
Domestic Debt, One Years Interest thereon.....		1, 700, 407.
		<hr/>
Making in the whole, the Sum of; Dollars.....		1,3, 009, 798. 58

From which deduct the Sum of One Million, Two hundred Thousand Dollars, being the excess of Specie, called for by the several Requisitions, of 1784, 1785, and 1786, beyond what is at present found necessary; (agreeably to a Report of this date from the Board of Treasury) and the Balance to be raised in Virtue of the present Requisition will be One Million, eight hundred, and nine thousand, Seven hundred, and Ninety eight D<sup>rs</sup> 58/90. That the Quotas, of the several States of the Sum above stated be as follows, Viz<sup>t</sup>

Newhampshire.....	63, 592.
Massachusetts.....	270, 780.
Rhode Island.....	38, 992.
Connecticut.....	159, 373.
New York.....	154, 727.
New Jersey.....	100, 572.
Pennsylvania.....	247, 569.
Delaware.....	27, 077.
Maryland.....	170, 745.
Virginia.....	309, 460.
North Carolina.....	131, 522.
South Carolina.....	116, 048.
Georgia.....	19, 341. 58

1, 809, 798. 58

That the excess in Specie, of the former Requisitions, as above stated be, and, it is hereby appropriated towards the Payment of one Years Interest, on the Domestic Debt, for the Year 1786, any thing in the said Requisitions to the contrary notwithstanding; and that whenever, one Moiety of the Sum required for the above purpose, shall be paid into the common Treasury, the Board of Treasury be, and they are hereby authorised, and directed to give public notice thereof in the several States, and to take such measures for the Payment of the

<sup>1</sup> The correct sum is 64/90 and not 58/90.

said Interest, as they shall think best adapted, for the convenience of the Public Creditors, in the several States, and for preserving regular Documents, of the Interest so paid.

That the foregoing Requisition is made in virtue of the powers of the Confederation, and is obligatory on the States as such; and that the Payments under the same shall be past to the Credit of the States respectively, on the terms prescribed by the Resolve <sup>1</sup> of Congress, of the 6<sup>th</sup> day of October 1779; and 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.

And whereas, from the delinquency, in several States, in discharging their respective Quotas, of the general Requisitions, the Public Service, is not only greatly impeded, but the United States, have been precluded from the means, of discharging their Foreign Engagements, which are at present accumulated, to a very heavy Amount.

*Resolved*, That it be again required of the several States, as indispensibly necessary, to the Welfare and Honor of the Union, to pay without delay, into the General Treasury, their several Quotas, of the former Requisitions; and that the States, which continue particularly delinquent, must be considered, as responsible for all the Evils, which will inevitably flow, from a total disregard to the political obligations, by which they are Constitutionally bound, to the other Members, of the Confederacy.

SAMUEL OSGOOD  
WALTER LIVINGSTON  
ARTHUR LEE

N<sup>o</sup> 2

Estimate of Money requisite for the War Department from 1<sup>st</sup> January to 31<sup>st</sup> December 1787.

Pay of the Troops.....	39, 031.
Subsistence.....	5, 232.
Rations.....	28, 129. 30
	<hr/>
	33, 361. 30
Clothing.....	15, 002.
Paymaster Generals department.....	3, 400.
Hospital department.....	1, 000.
Quarter Masters department.....	13, 000.
Ordnance department.....	24, 614. 60
Contingencies of War department.....	2, 000.
War Office.....	5, 000.
	<hr/>
	136, 409.

<sup>1</sup> *Journals*, vol. XV, p. 1147.

To which add the Amount of expences accruing in consequence of the Resolve <sup>1</sup> of Congress of the 20 <sup>th</sup> October 1786, per Estimate of the 13 <sup>th</sup> August 1787..	48, 748. 17	
Dollars.....		185, 157. 17
Deduct for the Pay M <sup>r</sup> Genl <sup>s</sup> Dep <sup>t</sup> included in the Estimate for the civil Department.....	3, 400.	
D <sup>s</sup> for the War Office included in Ditto.....	5, 000.	
	<u>8, 400.</u>	
Leaves for the War Department.....	Dollars	<u>176, 757. 17</u>

## C.

Comparative Estimate of the Sums required in Specie of the several States, by the Requisitions of 1784, 1785, and 1786, with the Expenditures made under the several Appropriations; and the Sums now judged necessary to complete the same; shewing the Surplus, or short provision of the Specie Appropriations, for the Years abovementioned.

By the Requisition of 1784 was required of the States in Specie Viz<sup>t</sup>

For Civil Department.....	107, 525. 33/90	
Military Department.....	200, 000.	
Marine Department.....	30, 000.	
Purchases of Indian Soil and expence.....	60, 000.	
Contingencies.....	60, 000.	
Debts contracted and unpaid for services of 1782 and 1783.....	1,000, 000.	
Spanish Loan, Int <sup>s</sup> on to 31 <sup>st</sup> Dec <sup>r</sup> 1784.....	37, 500.	
French Loan, Int <sup>s</sup> on 24,000,000 Livres.....	222, 000.	
Dutch Loan, Int <sup>s</sup> on 10,000,000 Liv <sup>s</sup> Guar <sup>d</sup> by France.....	74, 074.	
Ditto . Int <sup>s</sup> on 1,800,000 Florins.....	35, 000.	
Debt to Farmers Gen <sup>l</sup> Interest on.....	15, 680.	
		<u>1, 841, 779. 33</u>
Dollars.....		

By that of the 27<sup>th</sup> September 1785.

For Civil Department.....	<sup>2</sup> 122, 231.
Military Department.....	187, 224. 32
Purchases of Indian Soil.....	5, 000.
Contingencies.....	90, 000.
Dutch Loan, Interest on 10 Million Livres guaranteed by France.....	74, 074.

<sup>1</sup> *Journals*, vol. XXXI, pp. 892-893.

<sup>2</sup> In order to give the total under this requisition and balance this account with the recapitulation this amount should be 122,331.



French Loan of 24,000,000 Livres Int <sup>t</sup> on.....	222, 222. 20	
Spanish Loan of 174,000 D <sup>r</sup> s Int <sup>t</sup> on.....	8, 700.	
Dutch Loan of 5,000,000 Florins at 5 P C <sup>t</sup> .....	96, 527. 5	
Ditto of 2,000,000 D <sup>s</sup> at 4 p C <sup>t</sup> .....	30, 888. 88	
Farmers General 846,710 Liv <sup>s</sup> Capital.....	7, 840.	
	<hr/>	844, 807. 55

By the Requisition of the 2<sup>d</sup> of August 1786  
the Sum required in Specie was,

For Civil Department.....	169, 352. 86	
Military Department.....	168, 274. 50	
Contingencies.....	94, 294. 65	
Indian Affairs.....	6, 000.	
Geographers Department.....	8, 953.	
French and Dutch Loans, Int <sup>t</sup> for 1786.....	317, 985. 10	
Ditto. Principal and Interest for 1787.....	1, 392, 059. 17	
Spanish Loan balance of Interest.....	2, 396. 55	
Debts due to Foreign Officers Interest for 1786.....	11, 185. 55	
	<hr/>	2, 170, 501. 68
		<hr/>
		4, 857, 088. 66

In these Sums were included through error 4 Years Interest on the 18 Million, French Loan; whereas 2 Years only, ought to have been called for, to complete the Interest to 1787 inclusive; that for 1784, and 1785, having been included in the Estimates of these Years; making an excess (after rectifying an Error in the Estimate of the Year 1784, of computing the Interest on 24 Million of Livres at 220,000 instead of 220,222) of 333,111 Dollars.

#### Recapitulation.

Civil Department 1784, 1785 and 1786.....	399, 209. 29	
Military Department D <sup>s</sup> D <sup>s</sup> D <sup>s</sup> .....	555, 498. 82	
Marine Department 1784.....	30, 000.	
Purchases of Indian Soil &c 1784, 1785 and 1786..	71, 000.	
Contingencies 1784, 1785 and 1786.....	244, 294. 65	
Debts Contracted and Unpaid 1782 and 1783.....	1, 000, 000.	
Spanish Loan Interest on.....	48, 596. 55	
Farmers General Interest for 1784 and 1785.....	23, 520.	
French and Dutch Loans, Interest and Principal Installments for 1784, 1785, 1786 and 1787.....	2, 464, 830. 50	
Geographers Department 1786.....	8, 953.	
Debts due to Foreign Officers 1786.....	11, 185. 55	
	<hr/>	4, 857, 088. 66

From the above Statement it appears

	Surplus	Short provision
That, for the Civil Department was required in 1784, 1785 and 1786..	399, 209. 29	
Which Sum being founded on an Estimate of actual Salaries and Expences leaves no Surpl <sup>e</sup> .....		000, 000
For the Military Department.....	555, 498. 82	
On which Account has been Expended exclusive of Services of 1782 and 1783; the Sum of.....	559, 601. 68	
Judged necessary to complete pay and subsistence &c. of Col <sup>o</sup> Harmars Corps for 1786.....	39, 141. 33	
short provision.....		43, 244. 29
Marine Department.....	30, 000.	
Expended.....	24, 754. 45	
Balance judged necessary to complete the Appropriation..	5, 245. 45	
Doll <sup>s</sup>	30, 000.	
Purchases of Indian rights of Soil and Contingencies.....	315, 294. 65	
Under which two heads have been Expended.....	248, 863. 60	
Balance judged necessary to complete the Appropriation. Upwards of Forty thousand Dollars having been expended on Account of Barbary Treaties; and not required in any former Estimates.....	66, 431. 5	
Doll <sup>s</sup>	315, 294. 65	
Debts contracted, and unpaid in 1782, and 1783. On which Account there was required.....	1, 000, 000.	
Anticipation of the late Superintendent of Finance.....	153, 000.	
Expenditures by the Board.....	38, 539. 9	
Arrears of Military Pay due for 1782 and 1783.....	39, 141. 33	
Balance which may be appropriated for other objects.....	769, 319. 48	769, 319. 48
	1, 000, 000.	

French and Dutch Loans		
Int <sup>t</sup> and Principal for 1784, 1785, 1786 and 1787-----	2, 464, 830. 50	
On which Account has been Ex- pended-----	557, 427.	
The Sum necessary to complete Payment of Interest, and In- stallments of Principal to the end of the Year 1787-----	1, 574, 292. 50	
Excess of Appropriation-----	333, 111	333, 111
	<u>2, 464, 830. 50</u>	

Drs 1, 102, 430. 48

On the other Articles mentioned in the Recapitulation, there does not on examination, appear any Surplus; the excess however of the Sums required in Specie of the several States, by the Requisition of 1784, beyond the Aggregate objects, for which Specie was necessary, may be applied as stated in the Report.

The Sum required in Specie being-----	2, 003, 241	
And the Sum for which actual Specie was neces- sary-----	1, 841, 779. 33	
Surplus of Specie required-----		161, 461. 57
To which add as stated per contra-----		<u>1, 102, 430. 48</u>
Makes the Total Surplus-----	Doll <sup>s</sup>	<u>1, 263, 892. 15</u>
From which deduct Short provision on Military Department for 1784, 1785 and 1786-----	43, 244. 29	
For Contingencies-----	20, 647. 76	
		<u>63, 892. 15</u>
Remains subject to a change of Appropriation-----		<u>1, 200, 000.</u>
	Dollars <sup>1</sup>	<u>1, 263, 892. 15</u>

<sup>1</sup> SEPTEMBER 29, 1787. According to indorsement was read a petition of Henry Rogers, Richard Lush and Jacob John Lansing, August 20, 1787, requesting an explanation of a resolution respecting them. *Papers of the Continental Congress*, No. 42, VI, pp. 528-530. See October 3 and 4, 1787.

MONDAY, OCTOBER 1, 1787.

Congress assembled present Massachusetts Connecticut New York, New Jersey Pennsylvania Delaware Virginia North Carolina South Carolina and Georgia and from New-hampshire M<sup>r</sup> [Nicholas] Gilman and from Maryland M<sup>r</sup> [David] Ross.

On motion<sup>1</sup> of M<sup>r</sup> [Rufus] King seconded by M<sup>r</sup> H[enry] Lee,

*Resolved* That the Commissioners to be appointed in pursuance of the Ordinance passed the 7<sup>th</sup> day of May last for Settling the Accounts between the United States and individual States be allowed the same salary as is given to the Commissioners of the board of treasury, to commence from the time of their entering upon the duties of their Office.

On the report<sup>2</sup> of a committee consisting of M<sup>r</sup> [William] Pierce M<sup>r</sup> [William] Grayson and M<sup>r</sup> [William Samuel] Johnson to whom was referred a report<sup>3</sup> of the commissioner of Army Accounts on a Memorial of general Putnam.

*Resolved* That the commissioner of Army Accounts be directed to credit general Putnam for the sum of two thousand three hundred and eighty dollars; And that the said commissioner make a statement of the circumstances to the executive of Georgia and send on Authenticated copies of the several receipts given in the case, that the charges may be exhibited against the Officers in whose hands the Money was deposited.

On a report<sup>4</sup> of the board of treasury to whom was re-committed their report<sup>5</sup> on the Memorial of Arnold Henry Dohrman,

<sup>1</sup> *Papers of the Continental Congress*, No. 26, p. 661, in the writing of Mr. King. It is indorsed by Roger Alden as passed October 2, 1787.

<sup>2</sup> See May 7, 1787.

<sup>3</sup> See May 2, 1787.

<sup>4</sup> See May 11, 1787.

<sup>5</sup> See March 19, 1787.

*Resolved* That Arnold Henry Dohrman be reimbursed the sum of five thousand eight hundred and six dollars and seventy two ninetieths of a dollar with interest on the same from the time of expenditure, being the amount of sundry disbursements by him made for the relief of American prisoners agreeably to vouchers examined and admitted by the proper Officers of the treasury.

And whereas the claims of the said Arnold Henry Dohrman against the United States amount to twenty thousand two hundred and seventy seven dollars and 40/90 over and above the sum of five thousand eight hundred and six dollars and 72/90<sup>ths</sup> as above stated in support of which various and important documents are offered though of a nature too general to be admitted agreeably to the rules of the treasury.

And whereas this deficiency of vouchers appears to arise from the nature of the disbursements made by M<sup>r</sup> Dohrman whose own house was frequently the Asylum of whole crews of captive American seamen who were fed, clothed and relieved in sickness through his benevolence and that at a time when his attachment to the cause of America was dangerous both to his person and property.

And whereas Congress are disposed to acknowledge in the most honorable manner the eminent services rendered by M<sup>r</sup> Dohrman and to make him further compensation

*Resolved* Unanimously That the said Arnold Henry Dohrman be allowed in consideration of his faithful and generous services as agent from the United States at the court of Lisbon the sum of sixteen hundred dollars per annum and that the said salary be computed from the period at which his expenditures commenced to the present day.

*Resolved* Unanimously That one compleat and entire township, ~~out of the three last ranges~~ subject to the reservations as in the other townships agreeably to the Ordinance<sup>1</sup>

<sup>1</sup> *Journals*, vol. XXVIII, pp. 375-381.

of the twentieth of May 1785, out of the three last ranges surveyed, in the western territory of the United States be and hereby is granted to the said Arnold Henry Dohrman free from all charges of survey and that the said Arnold Henry Dohrman be allowed to make choice of the aforesaid township of land out of any of the said surveys [three ranges last surveyed] after the Secretary at War shall have drawn for the proportionate quantity of land assigned to the late army agreeably to the said Ordinance of the 20<sup>th</sup> May 1785.

*Resolved* Unanimously that the above payments be made in such manner as the present state of the finances will best admit of and that the same together with the grant of land as aforesaid be in full of M<sup>r</sup> Dohrman's claims against the United States.

A motion of Mr. Kean for offering for sale in Europe 10 mill. acres of Western territory<sup>1</sup>

TUESDAY, OCTOBER 2, 1787.

Congress assembled present Massachusetts Connecticut, New York, New Jersey Pennsylvania Delaware, Virginia, North Carolina, and South Carolina and from N[ew] Hampshire M<sup>r</sup> [Nicholas] Gilman, from Maryland M<sup>r</sup> [David] Ross and from Georgia M<sup>r</sup> [William] Few.

On a report<sup>2</sup> of 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<sup>ble</sup> M<sup>r</sup> Dana whilst on his embassy to the court of Petersburg.

*Resolved* That there be allowed to M<sup>r</sup> Francis Dana the sum of two thousand four hundred and ten dollars and three ninetieths of a dollar in full for the service and expence of a private secretary by him employed whilst on his embassy

<sup>1</sup> This entry is in the *Committee Book, Papers of the Continental Congress*, No. 190, p. 169. The motion was referred to the Board of Treasury to report.

<sup>2</sup> Read October 13, 1786. See *Journals*, vol. XXXI, pp. 874-875.

at the court of Petersburg from the 1 July 1781 to the 21 April 1783.

The board of treasury to whom was referred a memorial<sup>1</sup> of John Cochran Commissioner of the loan Office for the state of New York having reported<sup>2</sup>

“That in such states where the transactions of the commissioners of the loan Office shall in the judgment of the board of treasury render it necessary there be allowed one clerk at a salary not exceeding four hundred dollars per Annum and the further sum of one hundred dollars per annum in full of all charges for office rent candles and fire-wood.”

Question taken and unanimously negatived.

On the report<sup>3</sup> of the board of treasury to whom was referred a memorial<sup>4</sup> of Benjamin Stelle,

*Resolved* That there be allowed to Benjamin Stelle the pay and emoluments of a deputy paymaster in a separate department from the first of June 1779 to the first of April 1781.

<sup>5</sup>The Board of Treasury to whom was referred an extract of a Letter<sup>6</sup> from the honorable M<sup>r</sup> Jefferson Minister plenipotentiary to the Court of France, having reported,<sup>7</sup>

<sup>1</sup> See July 18, 1787.

<sup>2</sup> See July 31, 1787.

<sup>3</sup> See May 2, 1787.

<sup>4</sup> From this point to the end of the day the proceedings are entered by Benjamin Bankson and attested by Charles Thomson, in the *Secret Journal Foreign, Papers of the Continental Congress*, No. 6, III, pp. 402-405. They are also entered by Bankson (the introductory sentence and resolve by Thomson) in the *Secret Journal, Foreign Affairs, Papers of the Continental Congress*, No. 5, III, pp. 1649-1653.

<sup>5</sup> See March 28, 1787.

<sup>6</sup> See February 2, 1787.

<sup>7</sup> *Papers of the Continental Congress*, No. 140, II, pp. 463-467. This report was rendered February 19, 1787.

That the said Minister states, "That a proposition has been made to Monsieur de Calonne, Minister of the Finances of France, by a company of Dutch Merchants to purchase the debt due from the United States to the Crown of France; giving for the said debt, amounting to Twenty four million of Livres, the sum of Twenty million of Livres. That information of this proposition has been given to him by the Agent of the said Company, with the view of ascertaining whether the proposed Negotiation should be agreeable to Congress."

That the said Minister suggests "That if there is a danger of the public payments not being punctual, whether it might not be better that the discontents which would then arise should be transferred [from] to a Court, of whose good will we have so much need, to the breasts of a private Company."

"That the credit of the United States is sound in Holland; and that it would probably not be difficult to borrow in that Country, the whole sum of money due to the Court of France; and to discharge that debt without any deduction, thereby doing what would be grateful to the Court, and establishing with them confidence in our honor."

On a mature consideration of the circumstances above mentioned, the Board beg leave to observe,

That at the time the debt due from the United States to the Crown of France was contracted, it could not have been foreseen, that the different Members of the Union, would have hesitated to make effectual provision for the discharge of the same; since it had been contracted for the security of the Lives, Liberties and property of their several citizens, who had solemnly pledged themselves for its redemption; and that therefore the honor of the United States cannot be impeached for



having authorized their Minister at the Court of France to enter into a formal Convention acknowledging the amount of the said debt, and stipulating for the reimbursement of the principal and interest due thereon.

That should the United States at this period, give any sanction to the transfer of this debt, or attempt to make a Loan in Holland for the discharge of the same, the persons interested in the transfer or loan would have reason to presume that the United States in Congress would make effectual provision for the punctual payment of the principal and interest.

That the prospect of such provision being made within a short period, is by no means flattering; and though the credit of the United States is still sound in Holland, from the exertions which have been made to discharge the interest due to the Subscribers to the Loans in that Country; yet in the opinion of this Board it would be unjust, as well as impolitic, to give any public sanction to the proposed negotiation. Unjust, because the Nation would contract an engagement, without any well grounded expectation of discharging it with proper punctuality. Impolitic, because a failure in the payment of interest accruing from this negotiation (which would inevitably happen) would justly blast all hopes of credit with the Citizens of the United Netherlands, when the exigencies of the Union might render new Loans indispensably necessary.

The Board beg leave further to observe, that although a grateful sense of the services rendered by the Court of France would undoubtedly induce the United States in Congress to make every possible exertion for the reimbursement of the Monies advanced by his Most Christian Majesty; yet that they cannot presume, that it would tend to establish in the mind of the French Court,

an idea of the National honor of this Country, to involve Individuals in a heavy Loan at a time when Congress were fully sensible, that their resources were altogether inadequate to discharge even the interest of the same; much less the installments of the principal which would from time to time become due. How far the idea of transferring the discontents which may prevail in the French Court, for want of the punctual payment of interest to the breast of the private Citizens of Holland would be consistent with sound policy, the Board forbear to enlarge on.

It may be proper however to observe that, the public integrity of a Nation, is the best shield of defence, against any calamities, to which in the course of human events, she may find herself exposed.

This principle so far as it respects the conduct of the United States in contracting the Loans with France cannot be called in question. The reverse would be the case, should the sanction of the United States be given, either to the transfer of the French debt, or to the Negotiation of a Loan in Holland for the purpose of discharging it.

If it be further considered, that the consequences of a failure in the punctual payment of interest on the Monies borrowed by the United States, can by no means be so distressing to a Nation (and one powerful in resources) as it would be to Individuals, whose dependence for support is frequently on the interest of the Monies loaned, the Board presume that the proposed negotiation cannot be considered at the present juncture in any point of view, either as eligible or proper. Under these circumstances they submit it as their Opinion,

That it would be proper without delay to instruct the Minister of the United States at the Court of France not to give any sanction to any negotiation which may

be proposed for transferring the debt due from the United States, to any State or company of Individuals who may be disposed to purchase the same.

*Resolved* That Congress agree to the said report.

CHA<sup>s</sup> THOMSON *Sec<sup>y</sup>*

[Motion respecting remission of penalties of Mr. Twining<sup>1</sup>]

Whereas the Act of Congress of Sept<sup>r</sup> 25 last confines the remission of penalties to M<sup>r</sup> Twining to failures of his Contract by conveying the Mail by Horses instead of Carriages, which relief will be but partial, as from unavoidable accidents in some instances the carriage of the Mail was interrupted

*Resolved* That the Postmaster General extend the remission of penalties incurred by M<sup>r</sup> Twining in the failure of his Contracts to all such failures as have been already incurred.

[Motion respecting salary of Governor of Western territory<sup>2</sup>]

*R.* That the Salary of the Governor of the Western territory under the Ordin<sup>es</sup> of Congress of the 13<sup>th</sup> day of ~~Aug.~~ [July] 1787 be dollars annually, to commence from the time of his exercising the duties of his office.

[Report of Committee on petition of J. C. Symmes<sup>3</sup>]

The Committee consisting of [Mr. Nathan Dane, Mr. William Grayson, Mr. Abraham Clark, Mr. Melancton Smith and Mr.

<sup>1</sup> *Papers of the Continental Congress*, No. 61, p. 566, in the writing of Mr. Richard Henry Lee. This motion is also entered by Roger Alden in the *Committee Book, Papers of the Continental Congress*, No. 190, p. 169. According to indorsement and the *Committee Book* it was referred to the Post Master General to take order.

<sup>2</sup> *Papers of the Continental Congress*, No. 30, p. 131½. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 171, this motion was referred to a committee consisting of Mr. William Grayson, Mr. John Armstrong and Mr. Abraham Clark, which reported October 3, 1787.

<sup>3</sup> *Papers of the Continental Congress*, No. 42, VII, p. 296, in the writing of Mr. Nathan Dane. The report is indorsed on the memorial of Symmes. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 169, the petition was referred in accordance with the recommendation of the report. The petition of Symmes was entered in the *Committee Book* on pp. 169-170 by Roger Alden. See September 20 and 21, 1787.

William Samuel Johnson] to whom was referred the aforesaid petition report ~~that the following resolve~~ that the said petition be referred to the board of Treasury to take order.

[Report of Board of Treasury on Canadian refugees<sup>1</sup>]

The Board of Treasury to whom was referred a Memorial of the Canadian Refugees on Lake Champlain, praying for a continuance of the supply of Public Provisions

Beg leave to submit to the Consideration of Congress the following Resolves, Viz<sup>t</sup>

That the present state of the Treasury of the United States does not enable them to continue the general supply of Rations to the Canadian Refugees beyond the time prescribed by the Act<sup>2</sup> of Congress of the 30<sup>th</sup> June 1786.

That such of the Aged and Infirm amongst the said Canadians as may not be able to provide for the subsistence of themselves and families, be supplied for the space of Twelve Months with rations at the public expence (excepting the articles of Rum, Soap and Candles) agreeably to such a return of persons coming under the above description, as shall be made to the Board of Treasury by the Secretary at War.

The above Resolves are founded on the principles of a Report<sup>3</sup> of this Board of the 20<sup>th</sup> of May 1786, to which we beg leave to refer; with this observation, that the reasons which induced this Board at that time, not to recommend a general supply of Rations to the Canadian Refugees, operate more forcibly at present, than they did at that period.

All which is most humbly submitted.

SAMUEL OSGOOD  
WALTER LIVINGSTON  
ARTHUR LEE

BOARD OF TREASURY  
October 2<sup>d</sup> 1787.

<sup>1</sup> *Papers of the Continental Congress*, No. 138, I, pp. 191-192, read October 2, 1787. The covering letter, also read, is in *Papers of the Continental Congress*, No. 140, I, p. 403. The resolve of this report was passed October 12, 1787. See September 24, 1787.

<sup>2</sup> *Journals*, vol. XXX, pp. 381-382.

<sup>3</sup> *Journals*, vol. XXX, p. 298 n.

[Report of Board of Treasury on memorials of T. Hutchins and surveyors<sup>1</sup>]

The Board of Treasury, to whom was referred a Memorial and Letter of Thomas Hutchins Geographer to the United States, and sundry Memorials of the Surveyors employed under him in the Western Territory praying a Compensation on Account of their extra expence &c. in executing Surveys under the present Ordinance

Beg leave to Report,

That it appears from M<sup>r</sup> Hutchins' Memorial that in the year's 1785, 1786 and 1787, it became necessary to advance to the Surveyors employed under him, certain sums of Money, to enable them to purchase provisions, hire Chain Bearers &c. in order to execute the surveys, agreeably to the Ordinance<sup>2</sup> of the 20<sup>th</sup> May 1785, without which, it is the opinion of the Geographer that no Surveys whatsoever could have been executed.

That these advances exceed the established Compensation to which the Surveyors are respectively entitled; and that this excess arises from the allowance being (as we presume) not adequate to the nature of the Service; and from the Interruption, and expence occasioned by the hostile disposition of the Indians, which obliged the Surveyors to give up their Surveys, 'till they could replace the Horses stolen from them.

That the situation of most of the Surveyors appears to be such, from the Representation of the Geographer General, that unless some relief is extended to them, they will be exposed to suits, on account of the debts contracted by them in the necessary execution of their duty.

That Congress on the 25<sup>th</sup> September 1786<sup>3</sup> directed the sum of One thousand six hundred and seventy three Dollars 62/90ths, to be paid to certain Surveyors, on account of their extra expences in endeavoring to execute Surveys in the year 1785.

Under the above Circumstances, the Board being of Opinion, that the present instance is of such a nature, as to authorise a further compensation to the several Memorialists who apply for relief; submit to the Judgment of Congress the following Resolve Viz<sup>t</sup>

<sup>1</sup> *Papers of the Continental Congress*, No. 138, I, pp. 621-624, read October 2, and passed October 3, 1787. A copy of a proposition of Hutchins is on p. 617. See September 22 and 24, 1787.

<sup>2</sup> *Journals*, vol. XXVIII, pp. 375-381.

<sup>3</sup> See *Journals*, vol. XXXI, p. 687.

That the Geographer of the United States Certify to the Board of Treasury such reasonable charges of the extra expence, as shall appear to him on the best Vouchers, or other evidence which the nature of the case will admit of, to have been necessarily incurred by the Surveyors of the Western Territory in the execution of their respective Surveys; and that the Board of Treasury take such order, as the State of the Treasury will best admit of, for the payment of such of the said Expences, as they shall judge proper.

Agreed to 3 Oct 1787

The Board beg leave however to suggest, that whilst the peculiar Situation of the Memorialists induces them to reccommend their case to the Consideration of Congress, whether it would not be adviseable to adopt some system for carrying on the Surveys in future, which may not only abridge, but ascertain this expence; more particularly, as by the extent of the Surveys Westward, the Contingent Claims will be constantly increasing; In this point of View they submit to the consideration of Congress a Proposition made by the Geographer General for giving a discriptive Survey of several of the principal Rivers in the Western Territory on a Plan which (though differing from the present Ordinance) may probably be deemed not unworthy the attention of Congress.

All which is most humbly submitted

SAMUEL OSGOOD  
WALTER LIVINGSTON  
ARTHUR LEE

BOARD OF TREASURY  
October 2<sup>d</sup> 1787.

[Report of Secretary at War respecting troops <sup>1</sup>]

The Secretary of the United States for the department of war, to whom was referred his letter of the 26<sup>th</sup> of September last,  
Reports,

That the interests of the United States require, that a body of troops should be stationed, on the frontiers, in order to protect the settlers under lawful authority, from the depredations of the indians, and to prevent the valuable territory, north-west of the Ohio, from being wrested out of the public possession, by lawless adventurers.

<sup>1</sup> *Papers of the Continental Congress*, No. 151, pp. 295-298, read October 2, and passed October 3, 1787. See September 27 and 28, 1787.

That as the time for which the greater part of the troops, on the frontiers, are engaged, will expire in the course of the ensuing year, it is necessary that measures be immediately adopted, either for re-engaging the same men, or engaging others to replace them.

That the commissioned officers of the said troops having attained a knowledge of military discipline in general, and of the nature of the service in which they are employed in particular, are more valuable to the public, than others not possessing the same advantages, and therefore ought to be retained in service. That it is also important to re-engage as many of the non-commissioned officers and privates, as possible, as well for the discipline they possess, as to save the time, and money, necessary to transport recruits to replace them.

That for these reasons, it would be proper to renew the requisitions on those States, which furnished the troops required by the Act<sup>1</sup> of Congress of April 1785; the whole number being so small, as to render the proportion of each of the said States, an object of no great importance.

On these principles the following resolves are submitted:

Whereas the time for which the greater part of the troops on the frontiers are engaged will expire in the course of the ensuing year,  
*Resolved,*<sup>2</sup>

\* \* \* \* \*

All which is humbly submitted,

H KNOX

WAR OFFICE

October 2<sup>nd</sup> 1787.

<sup>1</sup> April 1, 7, and 12, see *Journals*, vol. XXVIII, pp. 223-224, 239-240 and 247-248.

<sup>2</sup> The resolves of the report were spread *verbatim* on the *Journal* on October 3, 1787 and hence are omitted here.

[Letter of Secretary for Foreign Affairs transmitting letter of Gardoqui <sup>1</sup>]

## OFFICE FOR FOREIGN AFFAIRS

2<sup>d</sup> October 1787

SIR: I have the Honor to transmit to your Excellency herewith enclosed a Letter <sup>2</sup> from M<sup>r</sup> de Gardoqui of 18<sup>th</sup> September last, together with a Translation of it, and am with great Respect, etc.,

JOHN JAY.<sup>3</sup>

His Excellency

THE PRESIDENT OF CONGRESS.

WEDNESDAY, OCTOBER 3, 1787.

Congress assembled present as yesterday.

On a report <sup>4</sup> of the board of treasury to whom were referred a Memorial <sup>5</sup> and letter of Thomas Hutchins geographer to the United States and sundry memorials <sup>6</sup> of the

<sup>1</sup> *Papers of the Continental Congress*, No. 80, III, p. 329, received October 2, 1787.

<sup>2</sup> *Papers of the Continental Congress*, No. 97, pp. 201-202, with translation on p. 203. It expressed thanks of Spanish king for assistance of the Council of Pennsylvania to the Frigate Loretto.

<sup>3</sup> OCTOBER 2, 1787. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 171, an extract of the letter of Thomas Jefferson to J. Jay, August 6, 1787, so far as relates to money due foreign officers, was referred to Board of Treasury to report. The extract, in the writing of Roger Alden, is in *Papers of the Continental Congress*, No. 138, I, pp. 635-636. The Board reported August 11, 1788. See September 25, 1787 and August 20, 1788.

According to the *Despatch Book, Papers of the Continental Congress*, No. 185, IV, p. 19, there was received a letter from Donald Campbell to President of Congress, July 2, 1787, requesting copies of sundry documents relating to his claims. *Papers of the Continental Congress*, No. 78, VI, p. 331. According to indorsement a motion to grant Campbell's request was passed in the negative on October 2, and the request was granted on October 3, 1787.

According to indorsement was read a letter of Joseph Parker to Arthur St. Clair, October 2, 1787, respecting the Western territory. *Papers of the Continental Congress*, No. 56, pp. 209-210.

<sup>4</sup> See October 2, 1787.

<sup>5</sup> See September 24, 1787.

<sup>6</sup> See March 1, 8 and 20, and September 22, 1787.



surveyors employed under him in the western territory praying a compensation on account of their extra expence etc. in executing surveys under the present Ordinance

*Resolved* That the geographer of the United States certify to the board of treasury such reasonable charges of the extra expence as shall appear to him on the best vouchers or other evidence which the nature of the case will admit of to have been necessarily incurred by the surveyors of the western territory in the execution of their respective surveys and that the board of treasury take such order as the state of the treasury will best admit of for the payment of such of the said expences, as they shall judge proper.

The com<sup>es</sup> consisting of M<sup>r</sup> [William] Grayson M<sup>r</sup> [John] Armstrong and M<sup>r</sup> [Abraham] Clarke to whom was referred a Motion <sup>1</sup> for ascertaining the salary of the Governor of the western territory under the Ordinance of the 13 July last having reported <sup>2</sup> That the salary of the governor of the western territory under the Ordinance of Congress of the 13 day of July 1787 be           dollars per Annum for a term not exceeding three years, the said salary to commence from the time of his beginning to execute the duties of his Office. That from and after the 14 day of August next the powers duties and emoluments of the superintendant of Indian Affairs for the Northern department be united with those of the governor.

A motion being made to fill the blank with the words “~~two~~ [One] thousand” the yeas and nays were called by M<sup>r</sup> [Abraham] Yates.

<sup>1</sup> See October 2, 1787,

<sup>2</sup> *Papers of the Continental Congress*, No. 30, p. 131.

<i>New hampshire</i>	M <sup>r</sup> Gilman	ne [ay]	*
<i>Massachusetts</i>	M <sup>r</sup> Gorham	ne [ay]	} ne [ay]
	M <sup>r</sup> King	ne [ay]	
	M <sup>r</sup> Dane	ne [ay]	
<i>Connecticut</i>	M <sup>r</sup> Johnson	ne [ay]	} ne [ay]
	M <sup>r</sup> Cook	ne [ay]	
<i>New York</i>	M <sup>r</sup> Smith	ne [ay]	} ne [ay]
	M <sup>r</sup> Haring	ne [ay]	
	M <sup>r</sup> Yates	no	
<i>New Jersey</i>	M <sup>r</sup> Cadwallader	ne [ay]	} ne [ay]
	M <sup>r</sup> Clark	ne [ay]	
	M <sup>r</sup> Schurman	ne [ay]	
<i>Pensylvania</i>	M <sup>r</sup> S <sup>t</sup> Clair	ay	} ay
	M <sup>r</sup> Bingham	ay	
	M <sup>r</sup> Armstrong	ay	
<i>Delaware</i>	M <sup>r</sup> Kearny	ay	} ay
	M <sup>r</sup> Mitchell	ay	
<i>Maryland</i>	M <sup>r</sup> Ross	ay	*
<i>Virginia</i>	M <sup>r</sup> Grayson	ay	} ay
	M <sup>r</sup> Madison	ay	
	M <sup>r</sup> R H Lee	ay	
	M <sup>r</sup> Carrington	ay	
<i>North Carolina</i>	M <sup>r</sup> Ashe	ay	} ay
	M <sup>r</sup> Burton	ay	
<i>South Carolina</i>	M <sup>r</sup> Kean	ay	} ay
	M <sup>r</sup> Huger	ay	
	M <sup>r</sup> Butler	ay	
<i>Georgia</i>	M <sup>r</sup> Few	ay	*

So the question was lost

The blank being filled with the words One thousand

So it was resolved in the affirmative.

And on the question

*Resolved* <sup>1</sup> That the salary of the governor of the western territory under the Ordinance of Congress of the 13 day of July 1787 be one thousand dollars per Annum for a term not exceeding three years the said salary to commence from the time of his beginning to execute the duties of his Office. That from and after the 14 day of August next the powers, duties and emoluments of the superintendant of Indian Affairs for the Northern department be united with those of the governor.

On Motion

*Resolved* <sup>1</sup> That the salary of the Secretary under the said Ordinance be seven hundred and fifty dollars per Annum to commence from the time of his beginning to execute the duties of his Office.

On Motion

*Resolved* <sup>1</sup> That the salary of the judges under the Ordinance aforesaid be severally eight hundred dollars per Annum to commence from the time of their beginning to execute the duties of their Office.

On passing this resolution the ayes and nays being required by M<sup>r</sup> [Abraham] Yates

<sup>1</sup> These resolves were entered by John Fisher in *Western Territory, Papers of the Continental Congress*, No. 176, p. 14.

<i>New Hampshire</i>			<i>Delaware</i>	
M <sup>r</sup> Gilman	ay	*	M <sup>r</sup> Kearny	ay
<i>Massachusetts</i>			M <sup>r</sup> Mitchell	ay
M <sup>r</sup> Gorham	no	}ay	<i>Maryland</i>	
M <sup>r</sup> King	ay		M <sup>r</sup> Ross	ay
M <sup>r</sup> Dane	ay		<i>Virginia</i>	
<i>Connecticut</i>			M <sup>r</sup> Grayson	ay
M <sup>r</sup> Johnson	ay	}ay	M <sup>r</sup> Madison	ay
M <sup>r</sup> Cook	ay		M <sup>r</sup> R H Lee	ay
<i>New York</i>			<i>North Carolina</i>	
M <sup>r</sup> Smith	ay	}ay	M <sup>r</sup> Ashe	ay
M <sup>r</sup> Haring	ay		M <sup>r</sup> Burton	ay
M <sup>r</sup> Yates	no		<i>South Carolina</i>	
<i>New Jersey</i>			M <sup>r</sup> Kean	ay
M <sup>r</sup> Cadwallader	ay	}ay	M <sup>r</sup> Huger	ay
M <sup>r</sup> Clarke	ay		M <sup>r</sup> Butler	ay
M <sup>r</sup> Schurman	ay		<i>Georgia</i>	
<i>Pensylvania</i>			M <sup>r</sup> Few	ay
M <sup>r</sup> S <sup>r</sup> Clair	ay	}ay		
M <sup>r</sup> Bingham	ay			
M <sup>r</sup> Armstrong	ay			

So it was resolved in the affirmative.

On a report<sup>1</sup> of the secretary at War to whom was referred his letter<sup>2</sup> of the 26<sup>th</sup> of Sept<sup>r</sup>, Congress came to the following resolutions

Whereas the time for which the greater part of the troops on the frontiers are engaged will expire in the course of the ensuing year

*Resolved* That the interests of the United States require that a corps of seven hundred troops should be stationed on the frontiers to protect the settlers on the public lands from the depredations of the Indians, to facilitate the surveying and selling of the said lands in Order to reduce the public debt and to prevent all unwarrantable intrusions thereon.

<sup>1</sup> See October 2, 1787.

<sup>2</sup> See September 27, 1787.

*Resolved* That in Order to save the great expence of transporting new levies to the distant frontiers of the United States and also to avail the public of the discipline and knowledge of the country acquired by the troops on the frontiers it is highly expedient to retain as many of them as shall voluntarily reengage in the service.

*Resolved* That seven hundred non commissioned Officers and privates be raised for the term of three years unless sooner discharged and that the same be furnished in the proportion herein specified by the states which raised the troops agreeably to the requisitions of Congress of April 1785

Connecticut	one hundred and sixty five
New York	one hundred and sixty five
New Jersey	one hundred and ten
Pensylvania	two hundred and sixty

That the commissioned Officers for the said troops be furnished by the said States agreeably to the present proportions.

That the Organization of the said troops together with the two companies of Artillery raised by virtue of the resolves<sup>1</sup> of Congress of the 20<sup>th</sup> of October 1786 be according to the present establishment; to wit, One regiment of infantry of eight companies, each company four sergeants, four corporals two musicians and sixty privates. And one battalion of Artillery of four companies each company four sergeants four corporals two musicians and sixty privates.

That the secretary at war make the necessary arrangements from time to time to replace the men on the frontiers whose engagements shall expire.

That the said troops shall be governed by such rules and Articles of War as are or shall be established by Congress or a committee of the States.

<sup>1</sup> *Journals*, vol. XXXI, pp. 892-893.

That the pay and allowances of the said troops be the same as directed by the resolve <sup>1</sup> of Congress of April 12<sup>th</sup> 1785.

That the board of treasury make the necessary provisions of Clothing and rations from time to time at such places as the secretary at war shall judge necessary.

<sup>2</sup> The Secretary of the United States for the department of Foreign Affairs to whom was referred a Letter <sup>3</sup> of the first of August from Reade and Bogardus, having reported <sup>4</sup>

That the object of the said Letter is to represent the case of William Cannon, late Master of the Sloop little Robert from New York, belonging to Mess<sup>rs</sup> Read and Bogardus, Peter Mesier and William Cannon, which case they state as follows, Viz<sup>t</sup>

“A state of Facts that happened to William Cannon, Master of the Sloop little Robert from New York, belonging to Reade and Bogardus, Peter Mesier and William Cannon.”

“On the 26<sup>th</sup> of May 1787, he was lying at Anchor at the Island of Heneauga,<sup>5</sup> where he had been about thirty hours, when the captain of a Schooner called the Vigilant, belonging to the Custom house of the Island of New Providence, came in his Boat with a number of Men on board the said Sloop, and made search for supposed goods, merchandize or produce of the Island

<sup>1</sup> *Journals*, vol. XXVIII, p. 248.

<sup>2</sup> From this point to the end of the day the proceedings are entered by Benjamin Bankson and attested by Charles Thomson, in *Secret Journal Foreign, Papers of the Continental Congress*, No. 6, III, pp. 405-407. They are also entered by Bankson (introductory clause and resolve by Thomson) in *Secret Journal, Foreign Affairs, Papers of the Continental Congress*, No. 5, III, pp. 1653-1655.

<sup>3</sup> See August 2, 1787.

<sup>4</sup> See September 26, 1787.

<sup>5</sup> Heneagua.

of Heneauga, when not finding any he left the Sloop and directed said Cannon not to lie longer than 48 hours at said Island as he would seize his Vessel and Cargo; and in less than one hour after said Cannon got under way and left the Island aforesaid, and on the 30<sup>h</sup> May he returned there again in company with a french Schooner, who came from the Aux Cayes and had on board Sugar, Coffee, Cotton and Cocoa of the produce of Hispaniola for the said Sloop little Robert, when both of them came to an Anchor at about 9 °Clock and began shifting the Cargo from the Schooner on board said Sloop. That about 11 °Clock she was boarded by the said Vigilant's Boat with loaded Muskets, Pistols and Cutlasses, and in boarding they killed one man named John Rodan, and much wounded another named William Bryan of said Cannon's crew, without any previous notice, after which they took possession of both Vessels, got up their Anchors and directly proceeded to New Providence, where said Vessels and Cargoes were condemned and sold. The whole of Cap<sup>t</sup> Cannon's stay at the Island of Heneauga, did not exceed 34 hours, and the Officer of the Vigilant had declared to Cap<sup>t</sup> Cannon that he would allow him 48 hours to do any thing, he might want to do to his Vessel. The Vigilant at the time this seizure was made had not a British register nor never was made a prize, and is now for sale on that very account, being an American built Vessel since the peace."

As the facts on which the first complaint is grounded are not supported by any Affidavits or proofs, that complaint does not as yet appear sufficiently authenticated to render a remonstrance to the british Court on that head adviseable; but your Secretary having reason to believe that Cap<sup>t</sup> Cannon, who is now in Town, is ready to depose to the truth of these facts, he thinks

it might be well for him to take the Captain's Affidavit, and in case it should fully support the facts above stated relative to that violence, then to transmit a copy of the Letter and of the Affidavit to M<sup>r</sup> Adams, to the end that he may communicate the same to the British Court, and urge their taking proper measures for bringing the Offenders to punishment, and prevent the like excesses in future.

With respect to the Illegality of the seizure and Condemnation, it is to be observed that the sentence of the Court was not final. On the contrary the party aggrieved might have appealed. Until the proceedings of the Court are seen, an adequate judgment cannot be formed either of their regularity or conformity to law and justice, nor can any nation become chargeable with failure of justice, while redress for the grievance complained of may be had by pursuing the course indicated and provided by their Laws for the purpose.

Hence your Secretary is of opinion, that with respect to the merits of the seizure and condemnation, Congress cannot in the present stage of the business interpose, but must leave the parties to pursue their remedy in the ordinary and well known course of judicial proceedings".

*Resolved* That Congress agree to the said report.

CHA<sup>s</sup> THOMSON *Sec<sup>y</sup>*

[Motion regarding printer <sup>1</sup>]

A motion to discharge the printer for Congress and employ another. Sec<sup>y</sup> of Congress to take Order when he shall find it necessary or judge proper.

<sup>1</sup> This proceeding was entered by Thomson in the *Committee Book, Papers of the Continental Congress*, No. 190, p. 171.



[Report of Secretary of Congress on memorial of Rutgers, Lush and Lansing <sup>1</sup>]

OFFICE OF SEC<sup>y</sup> OF CONGRESS

Oct 3, 1787

On the memorial of Henry Rutgers, Richard Lush and Jacob John Lansing late deputy muster masters, stating that by an Act <sup>2</sup> of 12 Jan<sup>y</sup> 1780 when the department was discontinued, the Officers who had served therein for 18 months were entitled to receive a sum equal to their pay respectively for the term of 12 months. That ~~not having received this money they~~ by an Act <sup>3</sup> of 2 June 1785 it was recommended to the executive of the State of New York to settle with and pay them the s<sup>d</sup> H Rutgers, R Lush and J J Lansing, by allowing them what their arrears of pay and years advance as deputy muster masters was worth in specie at the time they respectively became due, provided it appeared that no settle<sup>t</sup> had already been obtained. That in compliance with this recommendation the legislature passed an Act direct<sup>s</sup> the Auditor of the State to settle with and pay them &c as expressed in the recommendation. That in Consequence of the terms in which the recommendation of Congress and the Act of the State are expressed the Auditor conceives himself authorised only to liquidate and settle the arrears of pay and years Advance by the scale of depreciation at the value thereof in specie the time they became due, which would reduce the years pay to less than 14 dollars. That the petitioners conceiving themselves agrieved by this construction applied to the legislature for an explanatory Act and were referred to the United States for redress and thereupon praying that Congress would be pleased to pass an Act explanatory of their real intentions with regard to the petitioners

The Sec<sup>y</sup> of Congress reports

That the Memorial of Mess<sup>r</sup> Rutgers, Lush and Lansing be referred to a com<sup>ee</sup>.

<sup>1</sup> *Reports of Secretary of Congress, Papers of the Continental Congress*, No. 180, p. 64. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 171, the memorial was referred to a committee consisting of Mr. John Kean, Mr. Rufus King and Mr. Dyre Kearny, which reported October 4. See September 29, 1787.

<sup>2</sup> *Journals*, vol. XVI, p. 47.

<sup>3</sup> *Journals*, vol. XXVIII, p. 416.

[Report of Board of Treasury on petition of A. M<sup>o</sup> Farlan <sup>1</sup>]

BOARD OF TREASURY

Oct. 3<sup>d</sup> 1787.

The Board of Treasury to whom was referr'd the memorial of Andrew M<sup>o</sup>Farlane, Beg Leave to Inform Congress,

That the Board have already reported <sup>2</sup> on this Subject on the 24<sup>th</sup> April 1786; that the present Application is altogether Similar to what the Memorialist formerly presented; and that they see no Cause for varying from the Opinion submitted to the Consideration of Congress in the Report above mentioned.

All which is humbly Submitted

SAMUEL OSGOOD  
WALTER LIVINGSTON  
ARTHUR LEE <sup>3</sup>

THURSDAY, OCTOBER 4, 1787.

Congress assembled present as before.

[Report of committee on petition of Rutgers, Lush and Lansing <sup>4</sup>]

The Committee consisting of [Mr. John Kean, Mr. Rufus King and Mr. Dyre Kearny] on the petition of H Rutgers, Richard Lush, and Jacob John Lansing, report,

That it appears to your Committee that the petitioners were recommended to the State of New York for a settlement of their arrears, and one years pay granted them by resolution of the 12<sup>th</sup> Jan<sup>y</sup> 1780, by a resolution passed the 2<sup>d</sup> June 1785; which settlement

<sup>1</sup> *Papers of the Continental Congress*, No. 140, II, p. 475. See April 19 and July 20, 1787.

<sup>2</sup> *Journals*, vol. XXX, pp. 208-209.

<sup>3</sup> OCTOBER 3, 1787. According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 171, the following committee was appointed:

Mr. Edward Carrington, Mr. Abraham Clark and Mr. Nathan Dane on a memorial of Mrs. Douglas for seven years' half pay. This is the same committee as that of July 31, 1787 on the motion of Mr. Dane. Report rendered October 12, 1787. According to the *Despatch Book, Papers of the Continental Congress*, No. 185, IV, p. 19, Mrs. Douglas' memorial was received on October 3, 1787.

<sup>4</sup> *Papers of the Continental Congress*, No. 19, V, p. 263, read October 4, 1787. See September 29 and October 3, 1787.

was to be made at the value in specie at the respective terms the monies were due, against which they pray redress.

Your Committee observe that the resolution deranging these officers was prior to that allowing depretiation to the army, which last resolve required the persons to be in service on the day of its passing, ~~which these officers were not~~ And that Congress have uniformly ~~denied~~ refused granting depretiation to those officers who were deranged prior to the passing of the s<sup>d</sup> resolution.

[Report of Secretary of Congress on memorial of I. Morrison <sup>1</sup>]

OFFICE OF SECRETARY OF CONGRESS

Oct. 4, 1787

On the memorial of Isaac Morrison, stating that he was appointed to command a company in the first N Jersey regiment Jan<sup>y</sup> 1777 and continued in that command till the spring 1779 when he was deranged, that in the summer of 1780 he went to Kentucky where he continued till the spring of 1786 and did not hear of the resolution of Congress which limits the time for bring[ing] in claims against the United States until the term fixed was expired and therefore praying for relief.

The Secretary of Congress Reports

That the Memorial of Isaac Morrison be referred to the board of treasury to report.

[Report of Board of Treasury on accounts of J. Adams <sup>2</sup>]

BOARD OF TREASURY

October 3<sup>d</sup> 1787.

SIR: In obedience to the order of Congress we do ourselves the Honor of transmitting to your Excellency, an Abstract of M<sup>r</sup> Adam's particular Account as Commissioner, or Minister of the United

<sup>1</sup> *Reports of Secretary of Congress, Papers of the Continental Congress*, No. 180, p. 65. According to the *Despatch Book, Papers of the Continental Congress*, No. 185, IV, p. 19, Morrison's memorial was received October 3, 1787. According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 171, the memorial was referred as indicated in the report.

<sup>2</sup> *Papers of the Continental Congress*, No. 138, I, pp. 13-14, read October 4, 1787. A copy of Adams' letter of January 26, 1787 is on pp. 15-16 and an abstract of his account to August 1, 1786, is on pp. 21-22. According to *Reports of Committees, Papers of the Continental Congress*, No. 189, p. 26, this report was filed. See September 25, 1787.

States in Europe to 1<sup>st</sup> August 1785; since that period Congress will observe, by M<sup>r</sup> Adams letter herewith enclosed, that no Official statements have been transmitted of his Account; it is proper, however to observe, that subsequent to the date last mentioned, M<sup>r</sup> Adams has not drawn any Monies, but from the Commissioners of the Dutch Loans in Holland; and that principally for the Barbary Treaties, the disbursements on which Amount to Seven thousand Pounds Sterling; the remainder of his Drafts are on Account of his own, and Secretary's Salary, and contingencies of his Appointment; M<sup>r</sup> Adams has joint Accounts, under the heads of

Benjamin Franklin and John Adams  
Franklin Lee and Adams,  
and Deane and Adams;

but on these Accounts, by M<sup>r</sup> Barclay's statement, M<sup>r</sup> John Adams does not appear responsible for any Balance due to the United States.

We have the honor to be, etc.,

WALTER LIVINGSTON  
ARTHUR LEE

His Excellency

THE PRESIDENT OF CONGRESS.

[Report of Secretary for Foreign Affairs on letter of Mr. Gardoqui <sup>1</sup>]

FRIDAY, OCTOBER 5, 1787.

Congress assembled present as before.

Congress proceeded to the election of a governor for the western territory pursuant to the Ordinance of the 13<sup>th</sup> of July last and the ballots being taken

The hon<sup>ble</sup> Arthur S<sup>t</sup> Clair was elected.<sup>2</sup>

Congress proceeded to the election of a secretary pursuant to the said Ordinance and the ballots being taken

M<sup>r</sup> Winthrop Sargent was elected <sup>2</sup>

<sup>1</sup> *Papers of the Continental Congress*, No. 81, III, pp. 9-11, read October 4, 1787. This report, with only minor changes to make it a *Journal* entry, was entered in the *Journal* on October 8, 1787, when it was passed. See September 20, 1787.

<sup>2</sup> The proceedings regarding the election of governor and secretary of the Western territory, were also entered, by John Fisher, in *Western Territory, Papers of the Continental Congress*, No. 176, p. 14-15.

On a report<sup>1</sup> of the Secretary for foreign Affairs to whom were referred two letters from the hon<sup>ble</sup> John Adams of the 24 and 27 of January last

*Resolved* That the hon<sup>ble</sup> John Adams the Minister plenipotentiary of the United States at the court of London be permitted, agreeably to his request, to return to America at any time after the 24 day of february in the year of our Lord 1788 and that his Commission of Minister plenipotentiary to their High Mightinesses do also then determine.

*Resolved* That Congress entertain a high sense of the services which M<sup>r</sup> Adams has rendered to the United States in the execution of the various important trusts which they have from time to time committed to him and that the thanks of Congress be presented to him for the patriotism, perseverance, integrity and diligence with which he has ably and faithfully served his country.

On the report<sup>2</sup> of a committee<sup>3</sup> consisting of M<sup>r</sup> [Nathan] Dane M<sup>r</sup> [Benjamin.] Hawkins, M<sup>r</sup> [John] Kean, M<sup>r</sup> [William] Irvine and M<sup>r</sup> [Edward] Carrington to whom were referred a report of the secretary at War and sundry papers relative to Indian Affairs in the Northern department

*Resolved*<sup>4</sup> That a general treaty be held with the tribes of Indians within the limits of the United States inhabiting the country North west of the Ohio and about lake Erie as soon after the first of April next as conveniently may be and at such place and at such particular time as the governor of the Western territory shall appoint for the purposes of knowing the causes of uneasiness among the said tribes and hearing their complaints; of regulating trade and amicably settling

<sup>1</sup> See July 26, 1787 and entry of *Secret Journal* below on this day.

<sup>2</sup> See August 9, 1787.

<sup>3</sup> Appointed July 31, 1787.

<sup>4</sup> This resolve is also entered by John Fisher in *Western Territory, Papers of the Continental Congress*, No. 176, p. 15.

all affairs concerning lands and boundaries between them and the United States,

That the said governor of the Western territory hold the said treaty agreeably to such instructions as shall be given him for that purpose.

<sup>1</sup> The Secretary of the United States for the department of Foreign Affairs to whom was referred two Letters <sup>2</sup> from the hon<sup>ble</sup> John Adams of the 24<sup>th</sup> and 27<sup>th</sup> of January last, having reported <sup>3</sup> as follows,

“The first of these Letters gives occasion to several questions. 1<sup>st</sup> Shall M<sup>r</sup> Adams return after the expiration of his Commission to the Court of London, viz<sup>t</sup> 24<sup>th</sup> February 1788? Your Secretary is persuaded that M<sup>r</sup> Adams really wishes and means to return next spring and therefore thinks it would be proper for Congress to Resolve, that the hon<sup>ble</sup> John Adams the Minister plenipotentiary of the United States at the Court of London be permitted (agreeably to his request) to return to America at any time after the 24<sup>th</sup> February in the Year of our Lord 1788, and that his Commission of Minister plenipotentiary to their High Mightinesses do also then determine”. And having also reported a resolution approving his conduct and giving him the thanks of Congress. Both resolutions were agreed to as follows,

*Resolved*, That the hon<sup>ble</sup> John Adams the Minister plenipotentiary of the United States at the Court of London be permitted agreeably to his request, to return to America at any time after the 24<sup>th</sup> day of February in the Year of our Lord 1788, and that his Commission

<sup>1</sup> From this point the *Journal* entries were made by Benjamin Bankson and attested by Charles Thomson in *Secret Journal Foreign, Papers of the Continental Congress*, No. 6, III, pp. 408-411. These proceedings were also entered by Thomson in the *Secret Journal, Foreign Affairs, Papers of the Continental Congress*, No. 5, III, pp. 1656-1660.

<sup>2</sup> See April 11, 1787.

<sup>3</sup> See July 26, 1787.

of Minister plenipotentiary to their High Mightinesses do also then determine.

*Resolved*, That Congress entertain a high sense of the services which M<sup>r</sup> Adams has rendered to the United States in the execution of the various important trusts which they have from time to time committed to him and that the thanks of Congress be presented to him for the patriotism, perseverance, integrity and diligence with which he has ably and faithfully served his Country.

The Secretary having further reported,

The second question arising from this Letter is, Whether it will be expedient for the United States to appoint another Minister to take the place of M<sup>r</sup> Adams at the Court of London? On this head the Secretary is of the opinion that it will be expedient to appoint another, because there do exist differences between the United States and the Court of London which cannot too soon be adjusted, which must become the subject of occasional explanations and negotiations and which on the part of the United States cannot be so well managed and conducted as by means of an intelligent and discreet Minister on the spot. Your Secretary's feelings strongly prompt him to retaliate the neglect of Britain in not sending a Minister here; but as he conceives that such retaliation would eventually produce more inconveniences than advantages, he thinks it had better be omitted, especially as he is persuaded that this neglect will cease, the moment that the American Government and the administration of it shall be such as to impress other Nations with a degree of respect which various circumstances deny to Congress the means of imposing at present. He thinks it should be the policy of the United States at present to keep all things as smooth and easy and to expose themselves to

as few embarrassments as possible, until their affairs shall be in such a posture as to justify and support a more nervous stile of conduct and language. Britain disputes the eastern boundary of the United States; she holds important posts and territories on the frontiers and she complains that the treaty of peace has been violated by America. These Affairs are important and the management of them requires prudence and temper especially considering how little the actual state of our National Affairs tends to repress the influence either of unfriendly dispositions and passions or of that kind of policy which the weakness of Neighbours is very apt to suggest and promote. If Congress should concur in the opinion that a Minister to succeed M<sup>r</sup> Adams should be appointed, a resolution like the following would perhaps be the most proper. Whereas divers important Affairs still remain to be arranged and adjusted between his Britannic Majesty and the United States which on their part cannot be so well conducted as by means of a Minister plenipotentiary at the Court of London, therefore resolved that a Minister plenipotentiary to reside at that Court be appointed and that his Commission take effect on the 25<sup>th</sup> day of February 1788, and continue in force for the space of three Years thereafter unless sooner revoked. Your Secretary conceives it would be best that this Minister should be appointed so early as that he might have time to reach London by the first of February in order that he may have an opportunity of receiving information from M<sup>r</sup> Adams respecting Characters and Affairs and that the progress of the business of the legation may not be stopped by the expiration of M<sup>r</sup> Adams's Commission.

On the Question

*Resolved* That this part of the report be postponed.

The Secretary having proceeded in his report



“But if Congress should either not incline to appoint another Minister or should think proper to postpone it so long as that he will not probably be in London in February, then he thinks it would be right to consider another Question arising from the Letter viz<sup>t</sup> Whether it would be expedient to constitute Col. Smith Chargé des Affaires? On this head Your Secretary finds himself embarrassed. For on the one hand he esteems Col. Smith as a gentleman of acknowledged merit who has uniformly deserved well of his Country, And on the other the light in which the duties of his Office have hitherto been viewed gives the Colour of propriety only to his reporting on the expediency of appointments and not on the persons most proper to be appointed. And as the Letter referred to him and now under consideration does nevertheless raise the question relative to the person as well as the place he thinks it proper to make these remarks lest if not adverted to, his omitting to report on the former as well as the latter might be ascribed to other than the true reasons. He thinks that if when M<sup>r</sup> Adams quits the Affairs of the legation they are not to pass immediately into the hands of a Successor there can be little doubt of the expediency of appointing a proper person to take charge of them. In that case therefore it would in his opinion be proper to Resolve, That a person be appointed to take charge of the Affairs of the American legation at the Court of London from the expiration of the Commission of the present Minister to the arrival there of another Minister to succeed him or until the further Order of Congress.

On this part of the report a question was taken to agree thereto and was lost.

CHA<sup>s</sup> THOMSON *Sec<sup>y</sup>*

[Motion of Mr. Kean on the requisition of 1787 <sup>1</sup>]

*R* That 1,200,000 dollars in Specie, stated by the Board of Treasury to be a surplus appropriation in the years 1784, 85 and 86, be now appropriated to the payment of the specie part of the sums necessary for the services of the year 1787 and payment of the interest and instalments of the foreign debt that become due in the year 1788, and that the States be called on to furnish their quota of one years interest on the Domestic debt in certificates of Indents for interest.

[Letter of Secretary for Foreign Affairs on consular commission <sup>2</sup>]

OFFICE FOR FOREIGN AFFAIRS

5<sup>th</sup> October 1787.

SIR: I have the Honor of transmitting to your Excellency herewith enclosed a Letter <sup>3</sup> from M<sup>r</sup>: Phineas Bond of 2<sup>d</sup> Instant, together with a Commission from his britannic Majesty to George Miller Esq<sup>r</sup>, constituting him his Consul in the States of North and South Carolina and Georgia, and Deputy Commissary to the United States of America.

I have the Honor to be, etc.,

JOHN JAY.

His Excellency

THE PRESIDENT OF CONGRESS.

<sup>1</sup> *Papers of the Continental Congress*, No. 26, p. 667, in the writing of Mr. John Kean. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 171, this motion together with the report of the Board of Treasury on the requisition (see September 29, 1787) was referred to a committee consisting of Mr. John Kean, Mr. James Madison, Mr. Nathan Dane, Mr. Melancton Smith and Mr. William Grayson, which reported October 8, 1787. See October 11, 1787.

<sup>2</sup> *Papers of the Continental Congress*, No. 80, III, p. 333, read October 5, 1787.

<sup>3</sup> *Papers of the Continental Congress*, No. 78, IV, p. 549, read October 5, 1787. According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 171, this letter and the commission of Miller were referred to the Secretary for Foreign Affairs to report. Report rendered October 20, 1787.

## SATURDAY, OCTOBER 6, 1787.

Congress Assembled present Massachusetts New York Pennsylvania Delaware Virginia North Carolina and South Carolina and from New hampshire M<sup>r</sup> [Nicholas] Gilman from Connecticut M<sup>r</sup> [William Samuel] Johnson from Maryland M<sup>r</sup> [David] Ross and from Georgia M<sup>r</sup> [William] Few.<sup>1</sup>

## MONDAY, OCTOBER 8, 1787.

Congress assembled. Present Massachusetts, Connecticut New York, New Jersey, Pennsylvania, Delaware, Virginia North Carolina and South Carolina, and from New hampshire M<sup>r</sup> [Nicholas] Gilman and from Maryland M<sup>r</sup> [David] Ross.

A motion <sup>2</sup> being made by M<sup>r</sup> [Nathan] Dane seconded by M<sup>r</sup> [Melancton] Smith as follows,

Whereas it appears by the Journals of Congress that a federal court has been instituted pursuant to the articles of Confederation and perpetual Union to hear and determine a

<sup>1</sup> OCTOBER 6, 1787. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 172, the following committee was appointed:

Mr. Melancton Smith, Mr. Nicholas Gilman (in place of Mr. William Samuel Johnson), Mr. William Grayson, Mr. Rufus King and Mr. William Irvine, on a memorial of Baron von Steuben to [President of Congress], undated, read October 6, 1787, regarding his services to and claims against the United States. *Papers of the Continental Congress*, No. 19, V. pp, 573-579. This memorial, with the documents mentioned therein and some others, in pamphlet form, are to be found following p. 588. This committee was renewed February 1, 1788. See October 25, 1787.

According to indorsement and the *Committee Book*, the following petition was referred to the Secretary at War to report:

Petition of Thomas H. Cushing, October 7, 1787, read October 6, praying for issuance of a Captain's commission and adjustment of corresponding back pay. *Papers of the Continental Congress*, No. 42, II, pp. 234-235. Report rendered October 12, 1787. The petition was acted on June 11, 1788.

<sup>2</sup> *Papers of the Continental Congress*, No. 20, I, p. 197, in writing of Mr. Nathan Dane. See August 9, 1787.

controversy respecting territory between the states of Massachusetts and New York. And whereas it appears by the representations of the delegates of the said states in Congress that the said controversy has ceased and that the same has been settled and determined by an Agreement entered into on the sixteenth day of December last by the agents of the said states in the words following to wit . . . any further proceedings therefore in or relative to the aforesaid court having become unnecessary *Resolved* that all further proceedings in and relative to the said federal court as also the commissions of the judges thereof cease and determine."

A motion was made by M<sup>r</sup> [James] Madison seconded by M<sup>r</sup> [Abraham] Clarke to strike out the words "in the words following to wit," and on the question shall those words stand the yeas and nays being required by M<sup>r</sup> [Melancton] Smith

<i>New hampshire</i>			<i>Delaware</i>	
M <sup>r</sup> Gilman	ay *		M <sup>r</sup> Kearny	no }no
<i>Massachusetts</i>			M <sup>r</sup> Mitchell	no }
M <sup>r</sup> Gorham	ay }		<i>Maryland</i>	
M <sup>r</sup> King	ay }ay		M <sup>r</sup> Ross	no *
M <sup>r</sup> Dane	ay }		<i>Virginia</i>	
<i>Connecticut</i>			M <sup>r</sup> Grayson	no }
M <sup>r</sup> Johnson	ay }		M <sup>r</sup> Madison	no }
M <sup>r</sup> Cook	ay }ay		M <sup>r</sup> R H Lee	ay }no
<i>New York</i>			M <sup>r</sup> Carrington	no }
M <sup>r</sup> Smith	ay }		M <sup>r</sup> H Lee	ay }
M <sup>r</sup> Haring	ay }ay		<i>North Carolina</i>	
M <sup>r</sup> Yates	ay }		M <sup>r</sup> Ashe	no }
<i>New Jersey</i>			M <sup>r</sup> Burton	no }no
M <sup>r</sup> Cadwallader	no }		<i>South Carolina</i>	
M <sup>r</sup> Clarke	no }no		M <sup>r</sup> Kean	no }
<i>Pensylvania</i>			M <sup>r</sup> Butler	ay }d
M <sup>r</sup> S <sup>t</sup> Clair	no }		<i>Georgia</i>	
M <sup>r</sup> Irwine	no }no		M <sup>r</sup> Few	no *
M <sup>r</sup> Armstrong	no }			

So the question was lost and the words were struck out and on the question the motion being amended was agreed to as follows

Whereas it appears by the journals of Congress that a federal court has been instituted pursuant to the Articles of Confederation and perpetual Union to hear and determine a controversy respecting territory between the States of Massachusetts and New York; and whereas it appears by the representations of the delegates of the said states in Congress that the said controversy has ceased and the same has been settled and determined by an Agreement entered into on the sixteenth day of December last by the agents of the said states and any further proceedings in or relative to the aforesaid court having become unnecessary

*Resolved* That all further proceedings in and relative to the said federal court as also the commissions of the judges thereof cease and determine.

A motion <sup>1</sup> was then made by Mr [Nathan] Dane seconded by Mr [Abraham] Yates that the attested copy of the aforesaid agreement laid before Congress by the delegates of the two states be filed in the secretarys Office the same being in the words following,<sup>2</sup> To all to whom these presents shall come. The underwritten John Lowell, James Sullivan, Theophilus Parsons and Rufus King, Agents or Commissioners, appointed by the Commonwealth of Massachusetts of the one part, and the underwritten, James Duane Robert R. Livingston, Robert Yates, John Haring, Melancton Smith, and Egbert Benson, six of the Agents or Commissioners, appointed by the State of New York of the other part, send greeting; Whereas the commonwealth of Massachusetts did heretofore present a petition to the United States in Congress

<sup>1</sup> This motion, in the writing of Mr. Nathan Dane, is on the same page as his preceeding motion.

<sup>2</sup> Roger Alden takes up the record.

Assembled, thereby among other things stating, that all that territory which in the said petition is described as, "All that part of New England in America which lieth and extendeth between a great river called Merrimack and a certain other river there called Charles River being the bottom of a bay there called Massachusetts bay, and also all those lands lying within three english miles to the Southward of the southermost part of the said bay, and extending thence northward in latitude to the northward of every part of said river Merrimack, and in breadth of latitude aforesaid extending throughout all the main land, in longitude westwardly to the southern ocean" was the just and proper right of the said commonwealth, and farther stating that the State of New York, had set up a claim to some part of the land before mentioned the said commonwealth did therefore by the said Petition solemnly request <sup>1</sup> of the United States in Congress that Commissioners might be appointed for enquiring into and determining upon the claim aforesaid of the Legislature of the said commonwealth and that such other proceedings respecting the premises might be had as are by the Federal Government of the said United States in such case made and provided, as by the said petition filed among the Archives of the United States reference being thereunto had may more fully appear. And Whereas the State of New York doth in opposition to the said Claim of the Commonwealth of Massachusetts, claim as the just and proper right of the said State as well in respect of property, as jurisdiction all those lands and territories bounded on the North by the parallel of latitude passing through the said point place or boundary aforesaid of three miles to the Northward of every part of the said river Merrimack and bounded on the south by the parallel of latitude passing through the said point or place situate three miles south of the southermost part of the said Bay

<sup>1</sup> Benjamin Bankson takes up the entry.

called Massachusetts bay bounded on the West by the limits between the United States and the King of Great Britain and the line of cession from the State of New York to the United States and bounded on the east by the line agreed on and established between the late Colony of the Massachusetts bay and the late Colony of New York in the year one thousand seven hundred and seventy three and from the Northern termination of the said line, then bounded on the east by the west bank of Connecticut river. And Whereas the State of New York having been duly notified did appear by their lawful Agents to vindicate such their said right against the said claim of the said Commonwealth and proceedings were thereupon had in Congress pursuant to the Articles of Confederation in order to the appointment of Commissioners or Judges to constitute a Court for hearing and determining the said matters in question. And Whereas the said John Lowell, James Sullivan, Theophilus Parsons and Rufus King were afterwards by a certain Commission under the Seal of the said Commonwealth and bearing date the twenty sixth day of April in the Ninth year of the Independence of the United States and made in pursuance of an Act of the Legislature of the said Commonwealth passed the fourteenth day of March in the eighth year of the Independence of the United States and of a resolution of the said Legislature passed the eighteenth day of the said Month of March commissioned to be Agents to manage, conduct and prosecute the claims of the said Commonwealth to the lands described in the said petition, And Whereas afterwards and pending such proceedings in Congress the Legislature of the Commonwealth of Massachusetts did by an Act entitled an Act empowering the Agents appointed by this Government to defend the territory on the West side of "Hudsons river against the Claims of the State of New York to settle the controversy relative thereto otherwise than by a federal Court if they shall judge it ex-

pedient", enact that the major part of the said Agents or Commissioners should be fully authorised and empowered to agree with the Agents or Commissioners of the State of New York and settle the controversy respecting the territory aforesaid by a federal Court as appointed by virtue of the Confederation or otherwise in such way and manner as they should judge would comport with justice and the interest of the said Commonwealth and the Legislature of the State of New York did by an Act entitled "an Act supplementary to the Act entitled An Act to appoint Agents or Commissioners for vindicating the right and jurisdiction of this State against the Claims of the Commonwealth of Massachusetts pursuant to the Articles of Confederation and perpetual Union of the United States" among other things enact that it should be lawful for the said James Duane, Robert R. Livingston, Egbert Benson, John Haring, Melancton Smith and Robert Yates and also John Lansing, Junior or any five or more of them to settle the said controversy between the said State of New York and the said Commonwealth of Massachusetts, otherwise than by the said federal Court in such manner as they should judge most conducive to the interest of the said State as by the said Commission and the said several Acts relation being thereunto had may appear. Now therefore know ye that the underwritten Commissioners on the part of the Commonwealth of Massachusetts and the State of New York respectively having by mutual consent assembled at the City of Hartford in the State of Connecticut on the thirtieth day of November last in order to the due execution of their respective trusts and having duly exchanged and considered their respective powers and declared the same legal and sufficient after several conferences and to the end that all interfering Claims and controversies between the said Commonwealth of Massachusetts and the said State of New York as well in respect of jurisdiction as property may be finally



settled and extinguished and peace and harmony forever established between them on the most solid foundation, Have agreed and by these presents Do mutually for and in behalf of the said Commonwealth of Massachusetts and the said State of New York, by whom respectively they the said Commissioners have been so appointed and authorised as aforesaid agree to the mutual Cessions, Grants, Releases, and other Provisions following, that is to say First, the Commonwealth of Massachusetts doth hereby cede, grant, release and confirm to the State of New York forever all the claim, right and title which the Commonwealth of Massachusetts hath to the Government, sovereignty and jurisdiction of the lands and territories so claimed by the State of New York as herein before stated and particularly specified, Secondly the State of New York doth hereby cede, grant release and confirm to the said Commonwealth of Massachusetts and to the use of the Commonwealth their Grantees and the heirs and Assigns of such Grantees forever the right of preemption of the soil from the native Indians and all other the estate, right, title and property (the Right and title of Government, sovereignty and jurisdiction excepted) which the State of New York hath of in or to two hundred and thirty thousand and four hundred Acres to be located by the Commonwealth of Massachusetts and to be situate to the Northward of and adjoining to the lands granted respectively to Daniel Cox and Robert Lettice Hooper and their respective Associates and <sup>1</sup> between the Rivers Owega and Chenengo, and also of, in or to all the lands and territories within the following limits and bounds, that is to say, Beginning in the north boundary line of the State of Pennsylvania in the parallel of forty two degrees of north latitude, at a point distant eighty two miles west from the northeast corner of the State of Pennsylvania on Delaware river, as the said boundary line hath been run and marked by

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

the Commissioners appointed by the States of Pennsylvania and New York respectively, and from the said point or place of beginning running on a due meridian north to the boundary line between the United States of America and the King of Great Britain, thence westerly and southerly along the said boundary line to a meridian which will pass one mile due East from the northern termination of the straight or waters between lake Ontario and lake Erie, thence south along the said meridian to the south shore of lake Ontario, thence on the eastern side of the said streight by a line always one mile distant from and parallel to the said streight to lake Erie, thence due west to the boundary line between the United States and the king of Great Britain thence along the said boundary line until it meets with a line of cession from the State of New York to the United States, thence along the said line of cession to the norwest corner of the State of Pennsylvania, and thence east along the northern boundary line of the state of Pennsylvania to the said place of beginning and which said lands and territories, so ceded, granted, released and confirmed are parcel of the lands, and territories described in the said petition; Thirdly, The commonwealth of Massachusetts doth hereby cede, grant, release and confirm to the State of New York and to the use of the State of New York their grantees and the Heirs and Assigns of such grantees forever, the right of preemption of the soil from the native Indians, and all other the Estate right, title and property, which the commonwealth of Massachusetts hath, of, in, or to the residue of the lands and territories so claimed by the State of New York as herein before stated, and particularly specified. Fourthly, that the lands so ceded, granted, released and confirmed to the commonwealth of Massachusetts, or such part thereof as shall from time to time be and remain the property of the commonwealth of Massachusetts, shall during the time that the same, shall so be and remain such

property be free and exempt from all taxes whatsoever, and that no general or State tax, shall be charged on, or collected from the lands hereafter to be granted by the commonwealth of Massachusetts or on the occupants or proprietors of such lands, until fifteen Years after such confirmation as is herein after mentioned of such grants shall have expired, but that the lands so to be granted, and the occupants thereof shall during the said period be subject to town or county charges or taxes only; provided that this exemption from general or state taxes, shall not be construed to extend to such duties, excises or imposts to which the other Inhabitants of the State of New York shall be subject and liable. Fifthly, That no rents or services shall be reserved in any grants to be made of the said lands by the commonwealth of Massachusetts. Sixthly, That the Inhabitants on the said lands and territories being citizens of any of the United States, and holding by grants from the commonwealth of Massachusetts, shall be entitled to equal rights with the other citizens of the State of New York, and further that the citizens of the commonwealth of Massachusetts, shall from time to time and at all times hereafter have and enjoy the same and equal rights respecting the navigation and fishery on and in lake Ontario and lake Erie, and the waters communicating from the one to the other of the said lakes, and respecting the roads and portages between the said lakes as shall from time to time be had and enjoyed by the citizens of the State of New York, and the citizens of the commonwealth of Massachusetts shall not be subject to any other regulations or greater tolls or duties to be made or imposed from time to time by the state of New York respecting the premises, than the citizens of the State of New York shall be subject to. Seventhly, That no adverse possession of the said lands for any length of time shall be adjudged a disseisin of the commonwealth of Massachusetts. Eighthly, That the State of New York so long as any part of

the said lands, shall be and remain the property of the commonwealth of Massachusetts, shall not cede, relinquish or in any manner divest themselves of the government and jurisdiction of the said lands or any part thereof without the consent of the commonwealth of Massachusetts. Ninthly, That the commonwealth of Massachusetts may from time to time by persons to be by them authorised for the purpose hold treaties and conferences with the native Indians relative to the property or right of soil of the said lands and territories hereby ceded, granted, released, and confirmed to the commonwealth of Massachusetts, and with such armed force, as they shall deem necessary for the more effectual holding such treaty or conference; and the commonwealth of Massachusetts within six months after such treaties, shall respectively be made, shall cause copies thereof to be deposited in the office of the Secretary of the State of New York. Tenthly, The commonwealth of Massachusetts may grant the right of preemption of the whole or any part of the said lands and territories to any person or persons who by virtue of such grant shall have good right to extinguish by purchase the claims of the native Indians, provided, however, that no purchase from the native Indians by any such grantee or grantees, shall be valid unless the same shall be made in the presence of and approved by a Superintendant to be appointed for such purpose by the commonwealth of Massachusetts, and having no interest in such purchase, and unless such purchase shall be confirmed by the commonwealth of Massachusetts. Eleventhly, That the grantees of the said lands and territories under the commonwealth of Massachusetts shall within six months after the confirmation of their respective grants, cause such grants or the confirmations thereof or copies of such grants or confirmations certified or exemplified under the seal of the commonwealth of Massachusetts to be deposited in the said Office of Secretary of the State of New

York, to the end that the same may be recorded there, and after the same shall have been so recorded, the grantees shall be entitled to receive again from the said Secretary their respective grants or confirmations, or the copies thereof, whichsoever may have been so deposited without any charges or fees of Office whatsoever, and every grant or confirmation, which shall not, or of which such copy, shall not be so deposited, shall be adjudged void. In testimony whereof, The said John Lowell, James Sullivan, Theophilus Parsons, and Rufus King, for and in the name and behalf of the said commonwealth of Massachusetts, and the said James Duane, Robert R. Livingston, Robert Yates, John Haring, Melancton Smith, and Egbert Benson for and in the name and on behalf of the said State of New York have to these presents and a duplicate thereof, both indented interchangeably set their hands and affixed their seals: done at the city of Hartford aforesaid, the sixteenth day of December in the Year of our Lord one thousand seven hundred and eighty six, and the eleventh Year of the Independence of the United States of America. The following errors in transcribing being corrected before execution, viz. the words (the underwritten) between the first and second lines; (there) between the fourth and fifth lines, (are) and (said), between the ninth and tenth lines; (point) between the eleventh and twelfth lines; (said) between the 18 and 19 lines, (An Act intitled) between the 22 and 23 lines (relative thereto) between the 23 and 24 lines, (and) and (also) between the 28 and 29 lines, (following) between the 36 and 37 lines, (Sovereignty) between the 40 and 41 lines (appointed) between the 44 and 45 lines of the first sheet, being interlined; And (of Massachusetts) between the 11 and 12 lines (native) between the 15 and 16 lines (ceded) between the 16 and 17 lines, and (so) between the 27 and 28 lines, interlined in the second sheet, and an erasure between the words (until) and (fifteen) made in the second sheet.

John Lowell (L S) James Sullivan (L S) Theop<sup>s</sup> Parsons (L S) Rufus King (L S) Jas<sup>s</sup> Duane (L S) Rob<sup>t</sup> R. Livingston (L S) Robert Yates (L S) John Haring (L S) Melancton Smith (L S) Egb<sup>t</sup> Benson. Witnesses. Present at the sealing and delivery, George Wyllys, Tho<sup>s</sup> Seymour, Jesse Root, Jer<sup>s</sup> Wadsworth, D. Humphreys, W<sup>m</sup> Imlay, Joseph Webb, Simeon De Witt Lewis Dubois, Nath<sup>l</sup> Bethune; Be it remembered, That on this thirtieth day of January in the Year of our Lord one thousand seven hundred and eighty seven personally appeared before me Richard Morris Esq<sup>r</sup> Chief Justice of the State of New York, Jeremiah Wadsworth and Lewis Dubois Esquires, two of the subscribing witnesses to the within Instrument, who being by me duly sworn, did severally depose and say, that they were present and did see the within named James Duane, Robert R. Livingston, Robert Yates, John Haring, Melancton Smith, Egbert Benson, John Lowell, James Sullivan, Theophilus Parsons and Rufus King, severally sign, seal and deliver the within Instrument as their, and each of their free and voluntary act and deed, to and for the uses and purposes therein mentioned, and that George Wyllys, Thomas Seymour, Jesse Root, D. Humphreys, William Imlay, Simeon De Witt and Nathaniel Bethune, the other subscribing witnesses, were also present, and did together with the deponents sign and subscribe their names as witnesses to the execution thereof, and I having inspected the said Instrument, and finding no interlineations, or material erasures therein except those noted, in the body thereof to have been made before the execution thereof, do allow the same to be recorded. Ri<sup>d</sup> Morris, Secretary's Office, Office of the State of New York. ss. I certify that the within Instrument and certificate are recorded in the said Office in book of miscellaneous records, endorsed M R page 38 &c. examined and compared with the

said record, copy thereof, this second day of February 1787, by me Rob<sup>t</sup> Harpur D. Sec<sup>y</sup>. Secretary's Office of the State of New York. ss. I do hereby certify the foregoing to be a true copy of the original thereof remaining in the said Office (the word "hath" between the 27 and 28 lines, and the syllable "in" between the 45 and 46 lines, being first inter-lined, and the words "excises" on the 39<sup>th</sup> and "Ri<sup>d</sup> Morris" on the 62<sup>d</sup> lines being first written on Razures) examined and compared therewith this 8<sup>th</sup> day of August 1787 by me.

ROB<sup>t</sup> HARPUR D. Sec<sup>y</sup>"

<sup>1</sup> On the question to agree to this motion the yeas and nays being required by M<sup>r</sup> [Melancton] Smith

<i>New Hampshire</i>			<i>Delaware</i>		
M <sup>r</sup> Gilman	ay		M <sup>r</sup> Kearny	no	}no
<i>Massachusetts</i>			M <sup>r</sup> Mitchell	no	
M <sup>r</sup> Gorham	ay	}ay	<i>Maryland</i>		
M <sup>r</sup> King	ay		M <sup>r</sup> Ross	no	*
M <sup>r</sup> Dane	ay		<i>Virginia</i>		
<i>Connecticut</i>			M <sup>r</sup> Grayson	no	}no
M <sup>r</sup> Johnson	ay	M <sup>r</sup> Madison	no		
M <sup>r</sup> Cook	ay	M <sup>r</sup> R H Lee	ay		
<i>New York</i>			M <sup>r</sup> Carrington	no	}no
M <sup>r</sup> Smith	ay	M <sup>r</sup> H Lee	ay		
M <sup>r</sup> Haring	ay	}ay	<i>North Carolina</i>		
M <sup>r</sup> Yates	ay		M <sup>r</sup> Ashe	no	}no
<i>New Jersey</i>			M <sup>r</sup> Burton	no	
M <sup>r</sup> Cadwallader	no	}no	<i>South Carolina</i>		
M <sup>r</sup> Clarke	no		M <sup>r</sup> Kean	no	}d
<i>Pensylvania</i>			M <sup>r</sup> Butler	ay	
M <sup>r</sup> S <sup>t</sup> Clair	ay	}ay	<i>Georgia</i>		
M <sup>r</sup> Irwine	no		M <sup>r</sup> Few	no	*
M <sup>r</sup> Armstrong	ay				

So the question was lost.

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

<sup>1</sup> The Secretary of the United States for the department of Foreign Affairs to whom was referred a Letter <sup>2</sup> of the 28<sup>h</sup> day of August last from the Encargado de Negocios of his Catholic Majesty inclosing a Charleston paper in which was published a Letter to him dated the 1<sup>t</sup> day of March last signed John Sullivan late Captain 4<sup>h</sup> Regiment American light Dragoons, having reported <sup>3</sup>

“That in his opinion the said John Sullivan has by writing and publishing the letter in question committed an offence against the peace and dignity of the United States for which he ought to be punished. That the very imperfect provision as yet made for the judicial cognizance of such cases renders it difficult to point out the manner most proper for Congress to proceed in the present. The expediency of calling upon the Executive of any State to apprehend and cause this man to be tried according to the course of the Laws of the State is questionable, because unless done with a degree of vigor and spirit, the consideration of Congress would be still more diminished. That he (The Secretary) has been informed that M<sup>r</sup> Sullivan is really a deserter from the late American Army, and was concerned in very seditious practices at Philadelphia about the time that Congress removed from thence. Perhaps it might be well to direct the Secretary at War to report the

<sup>1</sup> From this point the *Journal* entries were made by Benjamin Bankson and attested by Charles Thomson in the *Secret Journal Foreign, Papers of the Continental Congress*, No. 6, III, pp. 411-413. They were also made by Thomson, in the *Secret Journal, Foreign Affairs, Papers of the Continental Congress*, No. 5, III, pp. 1660-1662.

<sup>2</sup> See September 20, 1787.

<sup>3</sup> See October 4, 1787. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 172, the part of this report relative to the apprehending of J. Sullivan was referred to the Secretary at War to report. Report rendered October 12, 1787.



facts respecting the desertion and his opinion what measures can and ought to be taken in consequence of them, his report together with the Letter abovementioned would probably render it expedient to order the Secretary at War to cause the said Sullivan to be arrested in the Western Country and sent under guard to Philadelphia where such of his Offences as might be cognizable by the laws of that State would be properly tried and where such further proceedings might be had against him as facts and circumstances may render proper." Whereupon

*Resolved* That the Encargado de Negocios of his Catholic Majesty be informed that Congress consider the conduct of John Sullivan in writing and publishing the Letter of which the said Encargado de Negocios complains as being very reprehensible and that they will cause such proceedings to be had against the writer as the laws of the land prescribe. And further that Congress will on this and every other occasion interpose their authority to frustrate and punish all such designs and measures as may be calculated to interrupt and disturb the peace and good understanding which happily subsist between his Catholic Majesty and the United States.

*Ordered* That the Secretary at War report the facts respecting the desertion of John Sullivan, And his Opinion what measures can and ought to be taken in consequence of them.

CHA<sup>s</sup> THOMSON *Sec<sup>y</sup>*

[Motion respecting inspection of copper coinage <sup>1</sup>]

R. That the B<sup>d</sup> of Treasury be empowered to inspect the Copper coinage contracted for under the resolve of the 21 day of April 1787.

<sup>1</sup> *Papers of the Continental Congress*, No. 26, p. 676. This motion was also entered in the *Committee Book*, *Papers of the Continental Congress*, No. 190, p. 172. According to indorsement and the *Committee Book*, the motion was referred to the Board of Treasury to take order.

[Report of committee respecting the requisition of 1787 <sup>1</sup>]

Report of a Committee consisting of M<sup>r</sup> [John] Kean, M<sup>r</sup> [James] Madison, M<sup>r</sup> [Nathan] Dane, M<sup>r</sup> [Melancton] Smith and M<sup>r</sup> [William] Grayson, to whom was referred the report <sup>2</sup> of the Board of Treasury and a Motion <sup>3</sup> of M<sup>r</sup> [John] Kean's respecting the requisition for 1787.

That from the several papers referred to them it appears, That there is wanting for the services of the Year 1787, the payment of One Year's Interest on the foreign debt and such part of the principal as becomes due in the year 1788 And the payment of One Year's Interest on the domestic debt the sum of 3,009,798.64 dollars.

That of the aforesaid sum 1,309,391.64 dollars, is absolutely necessary in Specie.

That there has been demanded from the States in years 1784, 1785, and 1786 a greater sum in specie than was necessary for the services of those Years, which surplus amounts by the annexed Schedule marked C. to 1,200,000 dollars.

That there are large sums due from the States on former requisitions, both in Specie and in Indents for Interest.

The Committee have carefully examined the Opinion of the Board of Treasury with respect to making a demand upon the States for the whole sum in Specie, but after mature consideration are of opinion that the good consequences hoped by the Board will not flow from the measure, and that the domestic Creditors will not be benefited so much by the change as the other parts of the community will be distressed, therefore as Congress is the common guardian of the whole, Your Committee cannot recommend the measure, but considering the present situation of the Union would recommend as great a forbearance in the demand for Specie as the nature of the case will admit.

Your Committee also beg leave to remark that in their opinion many difficulties have arisen from the restrictions made in former requisitions, in the issuing of the Indents of Interest, the making them receivable only for the year in which they were issued and then only when accompanied by a proportion of Specie and declaring that

<sup>1</sup> *Papers of the Continental Congress*, No. 26, pp. 662-664, in writing of Benjamin Bankson, read October 8, 1787. The report was made order of the day for October 9 and passed October 11, 1787. The portions of this report underlined by the editor were struck out or amended in the adoption.

<sup>2</sup> See September 29, 1787.

<sup>3</sup> See October 5, 1787.

after a certain period they should not be received from the States at the Federal Treasury, all which has served to check the exertions of the States and to keep back the Specie payments.

Nor have they had those beneficial effects expected from them of stopping the issue of Indents where States had not passed Legislative Acts to call them in or keeping up their value and preventing depreciation, but on the contrary have opened a new scene of speculation in transferring the property of a Citizen of a State who have not passed a Legislative Act to a Citizen of a State who has, in addition to which your Committee observe that the Acts of Congress empowering the Board of Treasury to contract for the sale of Western territory also empowers them to issue Indents of interest to the purchasers so that to continue such restriction would operate only to the injury of a few and be no public benefit, impressed with these ideas the Committee submit the following Resolves.

R. That for the services of the year 1787, for the payment of one years interest on the Foreign debt and such part of the principal as becomes due in the year 1788, and for the payment of one years interest on the domestic debt it will be necessary that 3,009,798.64 dollars be paid into the Treasury of the United States on or before the first day of July next to be appropriated to the following purposes viz:

For the Civil department.....	124, 161. 85
Military Department.....	176, 757. 17
Geographical Department.....	9, 964.
Invalid Pensions.....	88, 000.
Contingencies.....	19, 000.
Foreign debt, for the payment of Interest on the French and dutch Loans, and two instalments of principal on the French Loans, becoming due 1788.....dols..	871, 022. 87
Spanish Loan, one year's Interest due thereon.....	8, 700.
Debt due to Foreign Officers, one years Interest thereon.....	11, 185. 55
	891, 508. 52
Domestic Debt; one years Interest thereon.....	1, 700, 407.

Making in the whole the sum of.....dollars.. 3, 009, 798. 58

And as there has been demanded from the States in the years 1784, 1785, and 1786 1,200,000 dollars in Specie more than was necessary for the services of those years.

*R.* That the aforesaid sum of 1,200,000 dollars, together with 109,391.64 dollars in the hands of the Commissioners of Loans in Holland, be and hereby are appropriated to the payment of the Specie part of this requisition anything in former requisitions to the contrary notwithstanding and shall be applied in conformity with the several appropriations in the preceding part of this report giving preference according to the order in which they are stated in the estimate.

As 1,700,407 dollars, called for are to be applied to the payment of the payments of the interest due on the domestic debt of the United States.

*R.* 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 *in such manner as they judge most expedient*, and to ascertain the evidences of Interest due on 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 1786 any thing in the requisitions for the years 1784, 1785 and 1786 to the contrary notwithstanding.

*R.* That the quotas of the several States of the aforesaid sum of 1,700,407 dollars, in Indents be as follows, viz.

New Hampshire.....	59, 684.
Massachusetts.....	254, 381.
Rhode Island.....	36, 558.
Connecticut.....	149, 976.
New York.....	145, 555.
New Jersey.....	94, 372.
Pensylvania.....	232, 616.
Delaware.....	25, 506.
Maryland.....	160, 349.
Virginia.....	290, 770.
North Carolina.....	123, 450.
South Carolina.....	108, 996.
Georgia.....	18, 194.

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is 1,700, 407.

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 6'day of Oct. 1779.

*R.* That the Board of Treasury furnish the several Loan Officers with Indents 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 counterfeit 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 Indents 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 any other State in the Union as well as in the State in which they were issued. That the State paying such Indents of Interest into the Federal Treasury 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 Indents of Interest, but no State shall have a right to pay more than its quota as specified in the existing requisitions of Congress in the said Indents of Interest.

*R.* That the Board of Treasury be and they are hereby directed to transmit to each State an Account of their respective Arrears in Specie and in Indents, to state to them the impediments that the public service has suffered, and the accumulation of foreign and domestic embarrassments that have arisen from their delinquency, to press upon them the absolute necessity of their making payment of their Arrears of Specie, as it is the only fund on which Congress can rely for the support of the Federal Government and to remind those States who continue particularly delinquent, that they must be considered as responsible for all the evils which will inevitably flow from a disregard to the political obligations by which they are constitutionally bound.

*R.* That such part of the requisitions of the years 1784, 1785 and 1786 as restricts the receipt at the public Treasury of Indents of Interest without a certain proportion of Specie, those parts which declare that after a certain day those States which have not paid their quotas shall be held to pay the same in Specie and such part as prevent the receiving of the Indents issued in one year in payment of taxes for another be and they are hereby repealed. And it is

hereby declared that the Indents issued in 1784, 1785 and 1786 or under the present requisition shall be indiscriminately received in payment of any States quota of Indents of Interest.

[Report of Secretary for Foreign Affairs on letter of J. P. Jones <sup>1</sup>]

OFFICE FOR FOREIGN AFFAIRS

6<sup>th</sup> October 1787.

The Secretary of the United States for the Department of foreign Affairs, to whom was refered a Letter <sup>2</sup> of the 12<sup>th</sup> July last, from Chevalier Paul Jones,

Reports,

That several Questions arise from this Letter, and

1<sup>st</sup> What Measures are proper to be taken relative to the Prizes delivered up to the English by the Court of Denmark during the late War?

Doctor Franklin, in his Letter of the 21<sup>st</sup> July 1785, mentions that the Court of Denmark had offered £10,000 Sterling, as a Compensation for them, which he refused to accept, as they had been valued to him at £50,000.

As the Conduct of Denmark in that Instance was a Violation of the Laws of Nations, nothing but the particular Situation of the United States should, in his Opinion, induce Congress either to demand, or accept of, less than full and adequate Compensation; but as that Degree of Decision in the Negotiation, could not (if necessary) be supported by correspondent Measures, a Mode of proceeding will, he thinks, be expedient.

2<sup>d</sup> To whom shall this Negotiation be committed? To M<sup>r</sup> Jefferson solely? or to Chevalier Jones, as an Agent subordinate to M<sup>r</sup> Jefferson? or to Chevalier Jones solely? If the latter, what Character shall he sustain?

These Questions involve the Consideration of the Men, as well as the Measures to be adopted, and, therefore, for the Reasons assigned in a former Report, Your Secretary thinks he should forbear reporting his Opinion.

If Congress should prefer the first Mode suggested, then he thinks the following Resolutions would be proper, Vizt.

<sup>1</sup> *Papers of the Continental Congress*, No. 81, III, pp. 13-15, read October 8 and passed October 25, 1787.

<sup>2</sup> See July 20 and September 29, 1787.

*Resolved*, that the Minister of the United States at the Court of Versailles be, and he hereby is, authorized and instructed to represent to his Danish Majesty (either by repairing for that Purpose to Copenhagen or otherwise, as his Discretion and Circumstances may direct) that the United States continue to be very sensibly affected by the Circumstance of his Majesty's having caused a number of their Prizes to be delivered to Great Britain during the late War; and the more so, as no part of their Conduct had forfeited their Claim to those Rights of Hospitality which civilized Nations extend to each other.

That not only a Sense of the Justice due to the Individuals interested in those Prizes, but also an earnest Desire that no Subject of Discontent may check the Cultivation and Progress of that Friendship which they wish may subsist and increase between the two Countries, prompt the United States to remind his Majesty of the Transaction in Question; and they flatter themselves that his Majesty will concur with them in thinking, that as Restitution of the Prizes, is not practicable, it is reasonable and just that he should render, and that they should accept, a Compensation equivalent to the Value of them.

*Resolved*, That the said Minister be further authorized and instructed finally to settle and conclude the Demands of the United States, against his Danish Majesty, on account of the Prizes aforesaid, by such Composition, and on such Terms as may be the best in his Power to obtain.

As to the Reception, Disposition and Division of the Money, whether more or less, your Secretary thinks they are Matters appertaining to the Treasury Department; and, therefore, doubts the Propriety of his declaring his Sentiments respecting them.

If Congress should prefer the second Mode suggested, then it would be proper to correct the first of the above Resolutions, by striking out the Parenthesis in the first Sentence of it, and, also, to pass a further Resolution of the following Tenor, vizt.

*Resolved*, That, as it would probably be inexpedient for M<sup>r</sup> Jefferson to leave France, he be, and he hereby is authorized, as soon as he shall think proper, to dispatch the Chevalier Paul Jones to the Court of Denmark with such Powers and Instructions relative to the above mentioned Negotiation, as, in his Judgment may be most conducive to the successful Issue thereof Provided, that the ultimate Conclu-

sion of the Business be not made by ~~the Chevalier~~ [Agent] Jones, without the previous Approbation of M<sup>r</sup> Jefferson.

*Resolved*, That the Chevalier Jones [<sup>s</sup>d Agent or person employed], for his Agency in the Business aforesaid, be allowed [five p<sup>r</sup> C<sup>t</sup>] for all Expenses and Demands whatever, on that Account.

If Congress should prefer committing the Management of this Affair solely to Chevalier Jones, then it will only be necessary to determine what Character and Compensation should be given him.

The two first Resolutions (*mutatis mutandis*) will serve for his Instructions.

3<sup>d</sup> Should any, and what Notice be now taken of the Letter<sup>1</sup> written to Congress, by the Minister of the Marine of France *by Order of the King* on the 30<sup>th</sup> Day of May 1780, in favor of Chevalier Jones?

Sovereigns being equals, and this Letter being a Deviation from that Line of Propriety which such Equality seems to prescribe, the Self Respect of Congress opposes their gratifying the Chevalier's wish to enter it at large on their Journals.

4<sup>th</sup> Should a Letter be written by Congress to his Most Christian Majesty expressing their Thanks for "the Squadron he supported under their Flag"?

Such a Letter would, perhaps, have been more seasonable at a more early Period; but, inasmuch as every friendly Act merits Thanks, and, as the final Settlement of the Affairs of that Squadron, is satisfactory and recent; Your Secretary perceives no material Objections to a Letter like the following, *Viz*<sup>t</sup>

GREAT AND BELOVED FRIEND AND ALLY,

The just and liberal Principles, on which the Affairs of the Squadron which was under the Chevalier Jones, have lately been settled, not only meet with our Approbation, but afford an Occasion, which we embrace with Earnestness, of presenting to your Majesty our Thanks for the friendly Attention manifested to us in that Armament, and in the distinguished Manner in which you was pleased to honor and reward the Valor and Conduct of our Officer who commanded it.

Permit us to repeat to your Majesty our Assurances that the various and very important Benefits, for which we are indebted to your Friendship and Magnanimity, will never cease to interest us in what-

<sup>1</sup> *Papers of the Continental Congress*, No. 168, II, pp. 363-365, copy in French, with translation on pp. 365-366.



ever may concern the Happiness of your Majesty, your Family and People.

We pray, &c.

Done, &c.

5<sup>th</sup> Should the Report<sup>1</sup> of the Committee of Congress, mentioned in the Chevalier's Letter, be taken up, and decided upon?

Although your Secretary thinks the Chevalier merits highly of the United States, yet, as the Report in Question remains before Congress, it is a Subject, on which, in his Opinion, he ought to be silent.

6<sup>th</sup> Is the Mode proposed by the Chevalier for raising Money for the Relief of the American Captives at Algiers, viz<sup>t</sup> by an Impost on Seamen's Wages, eligible?

Congress having no Power to ordain and establish such a Regulation, Your Secretary thinks that an Investigation of its Expediency, would at present be premature.

All which is submitted to the Wisdom of Congress

JOHN JAY.

TUESDAY, OCTOBER 9, 1787.

Congress assembled present Massachusetts Connecticut New York New Jersey Pensylvania Virginia North Carolina and South Carolina and from New hampshire M<sup>r</sup> [Nicholas] Gilman from Delaware M<sup>r</sup> [Nathaniel] Mitchell from Maryland M<sup>r</sup> [David] Ross and from Georgia M<sup>r</sup> [William] Few.

A report<sup>2</sup> of the board of Treasury on a petition<sup>3</sup> of M<sup>r</sup> Abraham Yates jun<sup>r</sup>. being called for and read, A motion was made by M<sup>r</sup> [Robert] Burton seconded by M<sup>r</sup> [Nathaniel] Mitchell to commit the said report which is in the words following, to wit;

The board of treasury to whom was referred the petition of Abraham Yates jun<sup>r</sup> esq<sup>r</sup> late continental loan Officer<sup>4</sup> for the

<sup>1</sup> *Journals*, vol. XIX, pp. 390-391.

<sup>2</sup> *Papers of the Continental Congress*, No. 138, II, pp. 601-608. See March 19, 1787.

<sup>3</sup> See February 20, 1787.

<sup>4</sup> Benjamin Bankson takes up the entry.

State of New York, praying a further allowance for his services in that Department,

Beg leave to report

“That from a summary of M<sup>r</sup> Yates’ Commission Account, whilst acting as Loan Officer for the State of New York, transmitted to this Office by the Commissioner of Accounts for that State, it appears, That the amount of the Commissions allowed to, and received by M<sup>r</sup> Yates, for his services as Loan Officer, was six thousand two hundred and forty three dollars Specie value.

That M<sup>r</sup> Yates entered on the duties of his station in the Month of November 1779, and continued therein ’till the 1<sup>st</sup> of January 1786; but scarcely any business whatever was transacted in that Office after the Month of December 1781, ’till the Month of April 1785; so that the space of time in which M<sup>r</sup> Yates services were actually engaged in the business of the Loan Office, will not exceed three years.

That in the adjustment of M<sup>r</sup> Yates’ Commission Account, the State Commissioner has allowed a Specie commission on the nominal sum of the Old continental emissions received, and paid by the Loan Officer at a depreciated value, contrary to the general principles which had governed in the former settlement of Loan Office Accounts; and, that the propriety of adhering to these principles is clearly stated in the Report of the Comptroller of the Treasury, concurred in by this Board on the 16 December last. That in consequence of this mode of Adjustment, the Comptroller states, that there is a considerable difference in favour of M<sup>r</sup> Yates in the Specie balance found due to him. With respect to the additional compensation claimed by M<sup>r</sup> Yates, the Board observe, that it arises for services in signing, stamping and numbering about Twenty three thousand Bills of the New emission; and in counting, punching and packing 2,825,000 dollars in Bills of the Old emission; for which last service

M<sup>r</sup> Yates charges Fourteen hundred and twelve pounds, nine shillings, New York Currency, equal to Three thousand five hundred and thirty one Specie dollars, being a commission of  $\frac{1}{8}$  per Cent in Specie on the amount of the Old continental emissions abovementioned. That on estimating the amount of the Specie commission abovementioned at the value of the Old continental money as fixed by the Resolve of Congress of the 18<sup>h</sup> March 1780, it would amount to 141,240 continental dollars, which is equal to a commission of 5 per cent (instead of  $\frac{1}{8}$  as allowed by Congress) on the whole sum received; from which it clearly appears, that if a Specie commission was to be estimated on Monies received at a depreciated rate, the same would constantly augment in a ratio proportionate to the stage of depreciation; so that on the continental Monies still to be destroyed at the Treasury (estimating the present worth at 250 for one, at which it was lately purchased by the State of New York) the Commission would exceed 30 per Cent.

That it appears to this Board from a report of the two Commissioners employed in this City to examine, count, and destroy the Bills of the Old continental emissions now bringing into the Treasury, that betwixt the 15<sup>h</sup> December and the 19<sup>h</sup> January last, they had examined, counted and destroyed 2,759,217 dollars of the Old Continental emissions. That the allowance made to each of these commissioners is Two dollars per day; so that the expence attending this service has been One hundred and eight dollars; Admitting therefore the trouble of receiving and punching the Old emissions at the respective Loan Offices, to be equal to that of examining and destroying the same at the Treasury, the expence of cancelling the sum received by M<sup>r</sup> Yates would be One hundred and eleven Specie dollars, instead of Three thousand five hundred and twenty one dollars, as claimed by his Memorial. On the whole the Board beg leave to

observe, That on estimating the commissions on the Old emissions received by M<sup>r</sup> Yates on the principles stated in the report of the Comptroller, the Specie balance found due to that Officer would be diminished Two thousand eight hundred and ninety four dollars; so that should the commission of  $\frac{1}{8}$  per Cent. on the Old emissions cancelled by him in pursuance of the Resolve <sup>1</sup> of the 18 March 1780, be allowed (notwithstanding the objections made thereto by the Commissioner of Accounts for the State of New York,) the amount of the same would fall far short of the Sum obtained by M<sup>r</sup> Yates in consequence of the principles on which his commission Account has been settled; since by a just estimation of the commission of  $\frac{1}{8}$  per Cent. as claimed by the Memorial, the same would amount only to Eighty eight Specie dollars. The principle of applying a Specie commission on Monies received on account of the United States, at a depreciated value, appears to this Board a precedent of so dangerous a nature that they have esteemed it their duty, in the first instance, which has come under their cognizance, to be particular in their observations on it. The Commission Account of the Loan Officers of the States of Pennsylvania and Massachusetts, estimated in this manner, would amount to a sum, exceeding in a prodigious degree, any equitable compensation for their respective services. Nor is this the extent of the mischief; the various Officers entitled to Commissions in the Staff department, might plead a precedent for applying the same principle in the settlement of their respective Accounts, and thereby swell the amount of their Commissions to a sum of a far greater magnitude, than the public were bound to pay, or they had a right to expect. In the Commissary and Quarter Master General's department, under the direction of the late Major

<sup>1</sup> *Journals*, vol. XVI, pp. 262-266.

General Greene and Colonel Wadsworth; the sum of Old emission money received by them respectively, is as follows:

By Major General Greene.....	89, 903, 885 dollars
By Colonel Wadsworth.....	79, 246, 733 “

By the Resolve <sup>1</sup> of Congress of the 2<sup>d</sup> March 1778, the commission allowed to the Quarter Master General, and his two principal Assistants, for their trouble and expence, was to be one per cent on the monies issued to them. By the resolve <sup>2</sup> of the 9 April 1778, the Commissary General, his deputies, and purchasing Assistants, are allowed three per cent, on all the monies received and expended by them in their respective departments; At the date of the first resolve the value of continental money compared with Specie was at 56  $\frac{7}{90}$ <sup>ths</sup> per 100, at the date of the second, it was 47  $\frac{86}{90}$ <sup>ths</sup>. If therefore a specie commission, agreeably to the value of continental money when the commission was fixed, is allowed on the expenditures above stated, the sum due under that head to the late General Greene, and his two principal Assistants,

would be.....	511, 428 Specie dollars
To Col <sup>o</sup> Wadsworth and the Officers under him.....	1, 140, 162.

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1, 651, 590.

In the Commission of the Commissary General's department, those of the subordinate Officers are included, which is not the case in the first sum; but estimating the commissions due to Officers of same condition in the Quarter masters department to about the same allowance (which will be found nearly the case) the aggregate of the commission Account on these two Departments only, would be Two Million of Specie dollars. Whether or not the sum found due by the State Commissioner to M<sup>r</sup> Yates, is more than an adequate com-

<sup>1</sup> *Journals*, vol. X, p. 210.

<sup>2</sup> *Journals*, vol. X, p. 327.

pensation for his services, whilst acting as Loan Officer, the Board do not take upon themselves to determine. From the circumstances stated in this report, Congress will judge, whether any further allowance will be proper; or whether it will be necessary to revise the adjustment of the said Accounts, on the principles stated by the Comptroller of the Treasury. If on such readjustment the amount of the commissions found due to M<sup>r</sup> Yates should not be adequate, The United States in Congress (who are alone competent to this Object) may make such further additional allowance as they may judge necessary without giving a sanction to the establishment of a principle in the settlement of public Accounts, which in its consequences may prove highly injurious to the interest of the United States.

<sup>1</sup> On the question for committing the foregoing report the yeas and nays being required by M<sup>r</sup> [Nathaniel] Mitchell

<i>New hampshire</i>			<i>Delaware</i>	
M <sup>r</sup> Gilman	no *		M <sup>r</sup> Mitchell	ay *
<i>Massachusetts</i>			<i>Maryland</i>	
M <sup>r</sup> Gorham	ay	}ay	M <sup>r</sup> Ross	ay *
M <sup>r</sup> King	ay		<i>Virginia</i>	
M <sup>r</sup> Dane	ay		M <sup>r</sup> Grayson	no
<i>Connecticut</i>			M <sup>r</sup> Madison	no
M <sup>r</sup> Johnson	ay	}ay	M <sup>r</sup> R H Lee	no }no
M <sup>r</sup> Cook	ay		M <sup>r</sup> Carrington	no
<i>New York</i>			M <sup>r</sup> H Lee	no
M <sup>r</sup> Smith	ay	}ay	<i>North Carolina</i>	
M <sup>r</sup> Haring	ay		M <sup>r</sup> Ashe	ay
<i>New Jersey</i>			M <sup>r</sup> Burton	ay }ay
M <sup>r</sup> Cadwallader	ay	}ay	<i>South Carolina</i>	
M <sup>r</sup> Clarke	ay		M <sup>r</sup> Kean	ay
<i>Pensylvania</i>			M <sup>r</sup> Huger	ay }ay
M <sup>r</sup> S <sup>t</sup> Clair	no	}d	M <sup>r</sup> Butler	ay
M <sup>r</sup> Irwine	ay		<i>Georgia</i>	
			M <sup>r</sup> Few	ay *

So the question was lost

<sup>1</sup> Charles Thomson resumes the record.

[Report of committee respecting J. P. Jones <sup>1</sup>]

The Committee consisting of M<sup>r</sup> [Melancton] Smith, M<sup>r</sup> [Nathan] Dane M<sup>r</sup> [William Samuel] Johnson M<sup>r</sup> [Edward] Carrington and M<sup>r</sup> [Abraham] Clark, to whom was referred the report of the Board of Treasury on a Letter of the 18<sup>th</sup> July last from Cap<sup>t</sup> Paul Jones together with a report of the Commissioner of Accounts for the marine Department, relative to the division of the Prize money due to the Bonne Homme Richard and Alliance, beg leave to report,

That it appears to your Committee that Cap<sup>t</sup> Paul Jones has retained in his hands the Sum of 47,972: 11 Livres, which Sum he states he has actually expended in negotiating the recovery of the prize money due to Bonne Homme Richard and Alliance. But as the Resolution of Congress of the 1<sup>st</sup> November 1783 declares "that the said Cap<sup>t</sup> J. Paul Jones shall receive the Commission usually allowed in such cases out of the money he shall receive as Agent for the said Prizes in full compensation for his Services and Expences," And as the money he has recovered is not the property of the public but of individuals, your Committee are of Opinion that he cannot be allowed more than the usual Commission whereupon they submit the following Resolution,

That Cap<sup>t</sup> John Paul Jones, be allowed a Commission of five per Cent. in full compensation for his services and expences, in soliciting and recovering ~~from the Court of Versailles~~ payment for the prizes taken in Europe by ~~him~~ [the Squadron under his command] and due to the Bonne Homme Richard and Alliance, To be estimated upon the amount of the Money by him received, this being the Commission usually allowed in such cases.

Your Committee further report, That it appears that a division of the prize money was made in France under the direction of the Government thereof. That although this Division was not made in strict conformity, either to the Ordinance of his most Christian Majesty or to the Rules of the American navy, yet as it has taken effect, and cannot now be rectified they are of Opinion it ought to be considered as valid, wherefore they submit the following Resolution

That the quotas assigned to the several Ships, which were under the command of Cap<sup>n</sup> Jn<sup>o</sup> Paul Jones in Europe by direction of the

<sup>1</sup> *Papers of the Continental Congress*, No. 19, III, pp. 309-310, in the writing of Mr. Melancton Smith. Read October 9 and passed October 11, 1787. See July 20 and September 29, 1787.

court of France, be confirmed and considered as valid. And that a distribution of the prize money be made amongst the crews of the said Ships, seperately, agreeably to such Quotas.

Your Committee farther Reports, That as the Monies due to Cap<sup>t</sup> Jones Squadron are not yet recovered from the Court of Denmark, and as Cap. Jones is commissioned to negotiate this business, in their Opinion it would be proper that an immediate distribution should be made among the Captors ~~only~~ of the Sum actually paid by Cap<sup>t</sup> Jones to M<sup>r</sup> Jefferson, and that Cap. Jones be permitted to retain in his hands the Sum due from him, until the business be concluded with the Court of Denmark or until the farther Order of Congress, whereupon they submit, that it be resolved,

That the monies paid ~~received~~ by Cap<sup>t</sup> Jn<sup>o</sup> Paul Jones ~~into the hands of the honabl M<sup>r</sup> Jefferson, received of the Court of France and paid by him~~ into the hands of the honorable M<sup>r</sup> Jefferson, be distributed by the Board of Treasury, as soon as may be among the Captors, agreeably to the division made thereof ~~by the Court of Fr~~ under the direction of the Court of France.

*Resolved* That the Ballance ~~remaining~~ in the hands of Cap<sup>t</sup> Jn<sup>o</sup> Paul Jones be ~~reserved to be distributed when the Monies due from the Court of Denmark be recovered~~ or allowed to remain there until Congress shall give farther directions concerning it.

[Report of Board of Treasury on account of R. Harrison <sup>1</sup>]

The Board of Treasury to whom was referred a Letter <sup>2</sup> from the Honorable M<sup>r</sup> Adams of the 24<sup>th</sup> February last together with an Account <sup>3</sup> of M<sup>r</sup> Richard Harrison of Cadiz,

Beg leave to Report

That it appears from the said Letter that M<sup>r</sup> Harrison has advanced for the support of the Officers and Crew of the Ship Betsy James Erwing Commander, whilst she was detained by the Moors, and for Provision for the Crew on their passage to America, the sum of Three hundred and Thirty one and one quarter Mexican Dollars, of which advance he sollicit the reimbursement.

On the above application the Board submit to the consideration of Congress the following Resolve

<sup>1</sup> *Papers of the Continental Congress*, No. 138, I, pp. 585-586, read October 9 and passed October 12, 1787.

<sup>2</sup> See July 30, 1787.

<sup>3</sup> See July 6, 1787.



That the Board of Treasury take order for reimbursing to M<sup>r</sup> Richard Harrison Merchant of Cadiz the sum of Three hundred and thirty one Dollars and one quarter of a Dollar, being the Amount of his Advances for the maintenance of the Captain and Crew of the Ship Betsy, James Erwing Commander, whilst detained by the Moors, and for Provision for subsisting the Crew on their Passage to America.

All which is humbly submitted,

SAMUEL OSGOOD  
WALTER LIVINGSTON  
ARTHUR LEE <sup>1</sup>

BOARD OF TREASURY  
October 6, 1787.

WEDNESDAY, OCTOBER 10, 1787.

Congress assembled present as yesterday.

A motion <sup>2</sup> being made by M<sup>r</sup> [William] Grayson seconded by M<sup>r</sup> [Daniel] Huger That from and after the last day of Dec<sup>r</sup> next the public mail be conveyed from Petersburg in Virginia by the route of Halifax, Tarborough, Fayetteville, Camden and Columbia to the town of Augusta in the state of

<sup>1</sup> OCTOBER 9, 1787. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 172, the following petition was referred to the Board of Treasury to report:

Petition of John Hurd, read October 9, 1787, requesting payment of bills of exchange for \$48. *Papers of the Continental Congress*, No. 42, III, p. 582. Report rendered February 1, 1788.

Also according to the *Committee Book*, the following committee changes were made:

The committee of March 19, 1787, on the petition of Nathaniel Norris, was discharged.

The committee of September 25, 1787, on the request of Mr A. Lee was discharged.

Mr. Joseph Platt Cook was appointed in place of Mr. Egbert Benson on the committee of May 2, 1787, on a letter of the Secretary at War, dated April 26, 1787. See October 12, 1787.

<sup>2</sup> *Papers of the Continental Congress*, No. 61, p. 563, in the writing of Charles Thomson. After "the stage" the original reads "carriages or with single horse riders as he shall judge best [will be attended with least expence]" There is also the following added clause, "with cross post from such part of the road he may think to the town of Suffolk in Virginia".

Georgia and that the postmaster gen<sup>l</sup> make his contracts with the owners of the stage carriers accordingly.

On the question to agree to this the yeas and nays being required by M<sup>r</sup> [William] Few,

<i>Massachusetts</i>			<i>Maryland</i>	
M <sup>r</sup> Gorham	no	}	M <sup>r</sup> Ross	no *
M <sup>r</sup> King	no		<i>Virginia</i>	
M <sup>r</sup> Dane	no		M <sup>r</sup> Grayson	ay
<i>Connecticut</i>			M <sup>r</sup> Madison	ay
M <sup>r</sup> Johnson	no	}	M <sup>r</sup> R. H. Lee	ay
M <sup>r</sup> Cook	no		M <sup>r</sup> Carriton	no
<i>New York</i>			M <sup>r</sup> H Lee	ay
M <sup>r</sup> Smith	no	}	<i>North Carolina</i>	
M <sup>r</sup> Haring	no		M <sup>r</sup> Ashe	ay
<i>New Jersey</i>			M <sup>r</sup> Burtou	ay
M <sup>r</sup> Cadwallader	no	}	<i>South Carolina</i>	
M <sup>r</sup> Clarke	no		M <sup>r</sup> Kean	ay
<i>Pennsylvania</i>			M <sup>r</sup> Huger	ay
M <sup>r</sup> S <sup>t</sup> Clair	no	}	M <sup>r</sup> Butler	ay
M <sup>r</sup> Irwine	no		<i>Georgia</i>	
M <sup>r</sup> Armstrong	no		M <sup>r</sup> Few	ay *
<i>Delaware</i>				
M <sup>r</sup> Mitchell	no			

So the question was lost.

[Motion of Mr. King on conveyance of mails <sup>1</sup>]

That the p. Mast General be authorized to alter the route from Petersburg in Virg<sup>a</sup>. to Savannah in Georgia to Augusta in Georgia provided he may judge it beneficial and expedient and that in case of such alteration that he establish cross post agreeably to the ~~resolution~~

<sup>1</sup> *Papers of the Continental Congress*, No. 61, p. 564, in the writing of Mr. Rufus King. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 172, this motion was referred to the Postmaster General to report. Report rendered October 12 and acted on October 15, 1787.

principles provided in the R. of feb<sup>y</sup> 15, 1787 to the commercial towns on the sea-coast.<sup>1</sup>

THURSDAY, OCTOBER 11, 1787.

Congress assembled present Massachusetts Connecticut New York New Jersey Pennsylvania Delaware Virginia North Carolina and South Carolina and from New hampshire M<sup>r</sup> [Nicholas] Gilman, from Maryland M<sup>r</sup> [David] Ross and from Georgia M<sup>r</sup> [William] Few.

On Motion of M<sup>r</sup> [Nathan] Dane seconded by M<sup>r</sup> [Rufus] King

*Resolved* That the Contract<sup>2</sup> made by John Adams esq<sup>r</sup> Minister plenipotentiary in behalf of the United States of America on the first day of June 1787 for the loan of one Million of Gilders be and it is hereby ratified.

*Resolved* That three fair copies of the Contract with a ratification in the form of that agreed to on the first of Feb<sup>y</sup> 1785 mutatis mutandis endorsed on each copy be made out and duly attested and that the secretary for the department of foreign Affairs transmit the same by several conveyances to M<sup>r</sup> J Adams Minister plenipotentiary aforesaid.

The committee consisting of M<sup>r</sup> [John] Kean M<sup>r</sup> [James] Madison M<sup>r</sup> [Nathan] Dane M<sup>r</sup> [Melancton] Smith and M<sup>r</sup>

<sup>1</sup> OCTOBER 10, 1787. According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 172, the following letters were referred to the Board of Treasury to report:

Letters of M. Beaumarchais, July 2, 1787, and his agent, M. Chevallie, October 10, 1787, regarding the accounts of the former. Report rendered September 25, 1788.

According to the *Despatch Book, Papers of the Continental Congress*, No. 185, IV, p. 19, there was received:

A memorial of the inhabitants of Germantown, October 1, 1787, which was read, offering that place for Congress. *Papers of the Continental Congress*, No. 46, pp. 137-139.

<sup>2</sup> See September 20, 1787. See also July 26, 1787. The ratified contract was entered by Benjamin Bankson in *Papers of the Continental Congress*, No. 135, I, pp. 337-345, which is in the Department of State.

[William] Grayson to whom was referred a report <sup>1</sup> of the board of treasury and a motion <sup>2</sup> of Mr [John] Kean respect<sup>s</sup> the requisition for 1787 having reported <sup>3</sup>

“That from the several papers referred to them it appears that there is wanting for the services of the year 1787 the payment of one year’s interest on the foreign debt and such part of the principal as becomes due in the year 1788 and the payment of one years interest on the domestic debt the sum of 3009798 64/ dollars.

“That of the aforesaid sum, 1,309,391 64/ is absolutely necessary in specie. That there are considerable sums in specie due from the states over and above those which are necessary to discharge the existing demands on former requisitions which sums are nearly equal to the payment of that part of the present requisition that is absolutely necessary in specie and the objects for which the said sums were called for no longer existing they may be now appropriated to the purposes of the present requisition,<sup>4</sup> That they have carefully examined the Opinion of the board of treasury with respect to making a demand upon the states for the whole sum in specie; but after mature consideration are of opinion that the good consequences hoped by the board will not flow from the measure and that the domestic creditors will not be benefitted so much by the change as the other parts of the community will be distressed; therefore as Congress is the common guardian of the whole; they cannot recommend the measure but considering the present situa-

<sup>1</sup> See September 29, 1787.

<sup>2</sup> See October 5, 1787.

<sup>3</sup> *Papers of the Continental Congress*, No. 26, pp. 662–664. See October 8, 1787. The portions underlined by the editor indicate the amendments made in the report during the debate. The adopted report was printed and a copy signed by Thomson is in *Papers of the Continental Congress*, Broad-sides.

<sup>4</sup> The underlined clause is Amendment A to the report, in the writing of Mr. John Kean.

tion of the Union would recommend as great a forbearance in the demand for specie as the nature of the case will admit. That in their Opinion many difficulties have arisen from the restrictions made in former requisitions in the issuing of the indents of interest; the making them receivable only for the year in which they were issued and then only when accompanied by a proportion of specie and declaring that after a certain period they should not be received from the States at the federal treasury, all which have served to check the exertions of the states and to keep back the specie payments. Nor have they had those beneficial effects expected from them of stopping the issue of indents where states had not passed legislative Acts to call them in or keeping up their value and preventing depreciation but on the contrary have opened a new scene of speculation in transferring the property of a citizen of a state which has not passed a legislative Act to a citizen of a state which has. In addition to this the committee observe that the Acts of Congress empowering the board of treasury to contract for the sale of western territory also empowers them to issue indents of interest to the purchasers so that to continue such restriction would operate only to the injury of a few and be no public benefit".

Whereupon

*Resolved* That for the services of the year 1787 for the payment of one year's interest on the foreign debt and such part of the principal as becomes due in the year 1788 and for the payment of one years interest on the domestic debt it will be necessary that three millions and nine thousand seven hundred and ninety eight  $64/90$  dollars be paid into the treasury of the United States on or before the first day of July next, to be appropriated to the following purposes viz.

For the civil department.....	124, 161. 85
Military department.....	176, 757. 17
Geographers department.....	9, 964
Invalid pensions.....	88, 000
Contingencies.....	19, 000
Foreign debt for the payment of interest on the french and dutch loans and two instalments of principal on the french loans becoming due 1788.....	871, 622. 87
Spanish loan one years int. due thereon.....	8, 700
Debt due to foreign Officers one years interest thereon.....	11, 185. 55
	891, 508. 52
Domestic debt one years interest thereon.....	1, 700, 407
	3, 009, 798. 64
making in the whole.....dollars..	

Resolved That the sums called for in the years 1784, 1785 and 1786 and stated by the board of treasury not now to be necessary, the Objects for which they were called for no longer existing, which sums amount to one million two hundred thousand dollars be now appropriated to the payment of that part of the present requisition which cannot be discharged but with specie,<sup>1</sup> any thing in former requisitions to the contrary notwithstanding and shall be applied in conformity with the several appropriations in the preceding part of this report giving preference according to the order in which they are stated in the estimate.<sup>2</sup>

Resolved That One hundred and nine thousand three hundred and ninety one dollars 64/90 in the hands of the commissioners of loans in Holland in aid of the above sum be appropriated for the discharging the interest due on the foreign debt due in Holland and to no other purpose whatever.<sup>3</sup>

<sup>1</sup> The underlined clause is amendment B to the report, in the writing of John Kean.

<sup>2</sup> The clause "thing in . . . . . in the estimate", is written at the bottom of the page, with the place for insertion marked with x.

<sup>3</sup> This resolve was an amendment to the report. It is in the writing of Mr. John Kean.

<sup>1</sup> As 1,700,407 dollars called for are to be applied to the payment of the Interest due on the domestic debt of the United States

*Resolved* 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 *in such manner as they Judge most expedient*, and to ascertain the evidences of Interest due on 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 1786 anything in the requisitions for the years 1784, 1785 and 1786 to the contrary notwithstanding.

*Resolved*, That the Quotas of the several States of the aforesaid sum of 1,700,407 dollars in Indents be as follows  
Viz<sup>t</sup>

New Hampshire.....	59, 684
Massachusetts.....	254, 381
Rhode Island.....	36, 558
Connecticut.....	149, 976
New York.....	145, 555
New Jersey.....	94, 372
Pensylvania.....	232, 616
Delaware.....	25, 506
Maryland.....	160, 349
Virginia.....	290, 770
North Carolina.....	123, 450
South Carolina.....	108, 996
Georgia.....	18, 194

————— is 1, 700, 407

That the foregoing requisition, when paid shall be passed to the Credit of the States respectively on the Terms pre-

<sup>1</sup> John Fisher takes up the entry.

scribed by the Resolve <sup>1</sup> of Congress of the 6<sup>th</sup> day of October 1779.

*Resolved* That the Board of Treasury furnish the several Loan Officers with Indents 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 Counterfeit 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 Indents 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 any other State in the Union as well as in the State in which they were issued. That the state paying such Indents of Interest into the Federal Treasury 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 Indents of Interest, but no state shall have a right to pay more than its quota as specified in the existing requisitions of Congress in the said Indents of Interest.

*Resolved* That the Board of Treasury be and they are hereby directed to transmit to each state an account of their respective arrears in Specie and in Indents, to state to them the impediments that the public service has suffered and the accumulation of foreign and domestic embarrassments that have arisen from their delinquency,<sup>2</sup> to press upon them the absolute necessity of their making payment of their arrears of specie, as it is the only fund on which Congress can rely for the support of the federal government, and to remind those states who continue particularly delinquent, that they must be considered as responsible for all the evils

<sup>1</sup> *Journals*, vol. XV, p. 1147.

<sup>2</sup> At this point Roger Alden takes up the entry.



which will inevitably flow from a disregard to the political obligations by which they are constitutionally bound.

*Resolved* That such part of the requisitions of the Years 1784, 1785 and 1786, as restricts the receipt at the public treasury of Indents of Interest without a certain proportion of specie, those parts which declare that after a certain day those States which have not paid their quotas shall be held to pay the same in specie and such part as prevent the receiving of the Indents issued in one Year in payment of taxes for another, be and they are hereby repealed; And it is hereby declared that the Indents issued in 1784 1785 and 1786 or under the present requisition, shall be indiscriminately received in payment of any state's quota of Indents of Interest.

<sup>1</sup> When the third resolution was under consideration a Motion <sup>2</sup> was made by Mr [Abraham] Clarke seconded by Mr [Lambert] Cadwallader to strike out the words "in such manner as they judge most expedient" and in lieu thereof to insert "Or in such other manner as they or any of them may judge most expedient, provided the same shall be satisfactory to the creditors of the United States who may be affected thereby."

A motion <sup>3</sup> was made by Mr [William] Grayson seconded by Mr R[ichard] H[enry] Lee to amend the amendment by adding thereto the words "and provided there be no discrimination made between the citizens of one state and

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

<sup>2</sup> *Papers of the Continental Congress*, No. 26, p. 665, in the writing of Mr. Abraham Clark.

<sup>3</sup> *Papers of the Continental Congress*, No. 26, p. 665. This is written as a continuation of Mr. Clark's motion.

another and foreigners." And on the question to agree to the Amendment on the Amendment the yeas and nays being required by M<sup>r</sup> [William] Grayson

<i>New Hampshire</i>			<i>Delaware</i>		
M <sup>r</sup> Gilman	ay	*	M <sup>r</sup> Kearny	no	}no
<i>Massachusetts</i>			M <sup>r</sup> Mitchell	no	
M <sup>r</sup> King	no	}no	<i>Maryland</i>		
M <sup>r</sup> Dane	no		M <sup>r</sup> Ross	ay	*
<i>Connecticut</i>			<i>Virginia</i>		
M <sup>r</sup> Johnson	no	}di <sup>d</sup>	M <sup>r</sup> Grayson	ay	}ay
M <sup>r</sup> Cook	ay		M <sup>r</sup> Madison	ay	
<i>New York</i>			M <sup>r</sup> R H Lee	ay	
M <sup>r</sup> Smith	no	}no	M <sup>r</sup> Carrington	ay	
M <sup>r</sup> Haring	no		<i>North Carolina</i>		
<i>New Jersey</i>			M <sup>r</sup> Ashe	ay	}ay
M <sup>r</sup> Cadwallader	no	}no	M <sup>r</sup> Burton	ay	
M <sup>r</sup> Clark	no		<i>South Carolina</i>		
<i>Pensylvania</i>			M <sup>r</sup> Kean	ay	}ay
M <sup>r</sup> S <sup>t</sup> Clair	no	}no	M <sup>r</sup> Huger	ay	
M <sup>r</sup> Irwine	no		M <sup>r</sup> Butler	ay	
M <sup>r</sup> Bingham	no		<i>Georgia</i>		
M <sup>r</sup> Armstrong	no		M <sup>r</sup> Few	ay	*

So the question was lost.

On the question to agree to the motion for Amendment the yeas and nays being required by M<sup>r</sup> [Abraham] Clarke

<i>New Hampshire</i>			<i>Delaware</i>		
M <sup>r</sup> Gilman	no	}	M <sup>r</sup> Kearny	no	}no
M <sup>r</sup> Gorham	no		M <sup>r</sup> Mitchell	no	
<i>Massachusetts</i>			<i>Maryland</i>		
M <sup>r</sup> King	no	}no	M <sup>r</sup> Ross	no	*
M <sup>r</sup> Dane	no		<i>Virginia</i>		
<i>Connecticut</i>			M <sup>r</sup> Grayson	no	}no
M <sup>r</sup> Johnson	no	M <sup>r</sup> Madison	no		
M <sup>r</sup> Cook	no	M <sup>r</sup> R H Lee	no		
<i>New York</i>		M <sup>r</sup> Carrington	no		
M <sup>r</sup> Smith	no	M <sup>r</sup> H Lee	no		
M <sup>r</sup> Haring	no	<i>North Carolina</i>			
<i>New Jersey</i>			M <sup>r</sup> Ashe	no	}no
M <sup>r</sup> Cadwallader	no	M <sup>r</sup> Burton	no		
M <sup>r</sup> Clarke	ay		<i>South Carolina</i>		
<i>Pensylvania</i>			M <sup>r</sup> Kean	no	}no
M <sup>r</sup> S <sup>t</sup> Clair	no	M <sup>r</sup> Huger	no		
M <sup>r</sup> Irwine	ay	M <sup>r</sup> Butler	no		
M <sup>r</sup> Bingham	ay	<i>Georgia</i>			
M <sup>r</sup> Armstrong	ay	M <sup>r</sup> Few	no	*	

So it passed in the negative the question was lost.

When the quotas of the states were under consideration a motion was made by M<sup>r</sup> [Dyre] Kearny seconded by M<sup>r</sup> [Nathaniel] Mitchell to deduct from the quota of Delaware and add to that of Georgia the sum of 3506 dollars and on

the question to agree to this motion the yeas and nays being required by M<sup>r</sup> [Dyre] Kearny

<i>New Hampshire</i>			<i>Delaware</i>	
M <sup>r</sup> Gilman	ay *		M <sup>r</sup> Kearny	ay } ay
<i>Massachusetts</i>			M <sup>r</sup> Mitchell	ay }
M <sup>r</sup> Gorham	ay	} ay	<i>Maryland</i>	
M <sup>r</sup> King	no		M <sup>r</sup> Ross	ay *
M <sup>r</sup> Dane	ay		<i>Virginia</i>	
<i>Connecticut</i>			M <sup>r</sup> Grayson	ay
M <sup>r</sup> Johnson	no	} d <sup>d</sup>	M <sup>r</sup> Madison	ay
M <sup>r</sup> Cook	ay		M <sup>r</sup> R H Lee	ay } ay
<i>New York</i>			M <sup>r</sup> Carrington	ay
M <sup>r</sup> Smith	ay	} d <sup>d</sup>	M <sup>r</sup> H Lee	no
M <sup>r</sup> Haring	no		<i>North Carolina</i>	
<i>New Jersey</i>			M <sup>r</sup> Ashe	ay
M <sup>r</sup> Cadwallader	ay	} ay	M <sup>r</sup> Burton	ay }
M <sup>r</sup> Clarke	ay		<i>South Carolina</i>	
<i>Pensylvania</i>			M <sup>r</sup> Kean	no
M <sup>r</sup> S <sup>c</sup> Clair	ay	} ay	M <sup>r</sup> Huger	ay } no
M <sup>r</sup> Irwine	ay		M <sup>r</sup> Butler	no }
M <sup>r</sup> Bingham	ay		<i>Georgia</i>	
M <sup>r</sup> Armstrong	ay		M <sup>r</sup> Few	no *

So the question was lost.

On Motion<sup>1</sup> of M<sup>r</sup> [Melancton] Smith seconded by M<sup>r</sup> [Rufus] King

*Resolved* That it be and it is hereby recommended to the state of New York to pay to Donald Campbell the sum of two thousand dollars on Account of a debt specified to be due to him from the United States by the resolve of the 31 day of July last taking care ~~that the certificate of the register of the United States which he holds be taken up~~

<sup>1</sup> Another motion on this subject, in the writing of Mr. Melancton Smith, is in *Papers of the Continental Congress*, No. 36, IV, p. 47, as follows: "That it be and is hereby recommended to the State of New York, to pay unto ~~Brigadier General Donald Campbell~~ ~~or order on Account~~ the Sum of two thousand D<sup>r</sup> Dollars ~~in part~~ on account of a Certificate from the Register of the U. S which certificate ~~when~~ is to be taken up for which Sum when paid the said State shall be entitled to a credit on their specie proportion of the Requisitions of Congress."

and cancelled that he be charged in the books of the treasury with the sum paid him by the state and a new certificate given him for the balance which may then be due to him and that then the said state be entitled to a credit with the United States for the sum paid on ~~the~~ its specie proportion of the requisitions of Congress.

Congress took into consideration the report<sup>1</sup> of a Committee consisting of M<sup>r</sup> [Melancton] Smith M<sup>r</sup> [Nathan] Dane M<sup>r</sup> [William Samuel] Johnson M<sup>r</sup> [Edward] Carrington and M<sup>r</sup> [Abraham] Clarke to whom had been committed a report<sup>2</sup> of the board of treasury on a letter<sup>3</sup> of the 18 of July from Capt J P. Jones together with a report<sup>4</sup> of the commissioner of Accounts for the Marine department relative to the division of the prize Money due to the Officers and crew of the Bon Homme Richard and Alliance and the charges of capt Jones for recovering the same.

And the report having been postponed ~~to take up~~ And the following motion<sup>5</sup> made by M<sup>r</sup> [Edward] Carrington under consideration viz

<sup>6</sup> Whereas it having been represented to the United States in Congress Assembled that large sums of prize money were due in Europe to the Officers and Crews of the Squadron commanded by Cap<sup>t</sup> John Paul Jones in the late War, and that from the circumstances under which that property was, as well as the inability of the claimants individually to recover their respective shares, the interference of the Sover-

<sup>1</sup> See October 9, 1787.

<sup>2</sup> See September 29, 1787.

<sup>3</sup> See July 20, 1787.

<sup>4</sup> *Papers of the Continental Congress*, No. 138, I, pp. 715-717, copy.

<sup>5</sup> *Papers of the Continental Congress*, No. 36, III, pp. 379-382, in the writing of Mr. Edward Carrington. The original motion has several verbal changes, not affecting the meaning, and one considerable portion struck out, to bring the reading into conformity with the *Journal* entry.

<sup>6</sup> At this point John Fisher resumes the entry.

eighty in their behalf had become necessary, it was on the first of November 1783 Resolved<sup>1</sup> that the said Captain J. P. Jones be recommended to the minister plenipotentiary of the United States at the Court of Versailles, as agent to solicit under the direction of the said Minister for payment and satisfaction to the Officers and Crews for all prizes taken in Europe under his Command, and to which they were anywise entitled, and that the said Cap<sup>t</sup> J. P. Jones should receive the Commissions usually allowed in such cases out of the money which he should recover as agent for the said prizes in full compensation for his Services and expences; And it now appearing to Congress that the said Cap<sup>t</sup> J. P. Jones did without loss of time repair to France for the purpose of carrying into effect the objects of his appointment so far as they were within that Kingdom; that finding that M<sup>r</sup> Le Ray du Chaumont in whose hands the greatest part of the said prize money had been placed had become insolvent, he was reduced to the Necessity of abandoning so much of the property as lost, or turning his views upon the Court of France, whose interposition alone could reinstate it, that the said Cap<sup>t</sup> J. P. Jones did make application to and obtained from the said Court a settlement and payment of the prize money due from M<sup>r</sup> Chaumont.<sup>2</sup> It further appearing that the said Cap<sup>t</sup> Jone's attendance at the Court of France for obtaining this payment, has necessarily been continued several years, and

<sup>1</sup> *Journals*, vol. XXV, pp. 787-888.

<sup>2</sup> The following was struck out of the original motion at this point: "and make him answerable to the Crown for the reimbursement thereof; and as it does not appear that the Court of France was under any legal obligation to assume such payment, there is the greatest reason to suppose that the unre-mitted solicitations of the said Cap<sup>t</sup> Jones, and personal considerations which his distinguished bravery and good conduct had inspired, principally induced the s<sup>d</sup> Court to this Act of liberality to the Officers and crews who had, under his command, gloriously served the two nations;"

exposed him to very great expence, without which it is probable he would not have succeeded, and although the terms upon which he Originally undertook the Negotiation were for the usual Commissions, yet as the business was found to stand upon ground materially different from that which was contemplated by either Congress or the said Captain Jones at the time of his appointment, it is just and reasonable that the full value of the services and expences which he has necessarily incurred for the benefit of the claimants be deducted from the property recovered, therefore

*Resolved* That the said Cap<sup>t</sup> John Paul Jones be, and hereby is authorised to retain in his hands out of the prize money received from the Court of France for the Officers and Crews of the Squadron under his Command in the late War the sum of 47,972..11<sup>s</sup> Livres which it appears by his Oath were expended by him during his attendance at the Court of France for the purpose of obtaining the said payment; and that this be in full for his time and expences.

A motion<sup>1</sup> was made by M<sup>r</sup> H[enry] Lee seconded by M<sup>r</sup> [William] Grayson, to postpone the consideration of the said Motion in order to take up the following Viz

That the excess of money's expended by the Chevalier Jones above the Commission, [allowed by the Resolution of the 1 Nov<sup>r</sup> 1783] while acting as agent under the authority of the Resolution of Congress of the 1<sup>st</sup> of November 1783 [Congress] for the Officers and Crews of his late Squadron be paid out of the federal Treasury, and that the Board of Treasury take order accordingly.<sup>2</sup>

<sup>1</sup> *Papers of the Continental Congress*, No. 19, III, p. 317, in the writing of Mr. Henry Lee. A memorandum of this proceeding for the *Journal* entry, was written by Thomson on the motion.

<sup>2</sup> The changes in this paragraph were made by Thomson.

And on the question to postpone for the purpose above mentioned the yeas and nays being required by M<sup>r</sup> [William] Grayson

<i>New Hampshire</i>			<i>Delaware</i>	
M <sup>r</sup> Gilman	no*		M <sup>r</sup> Kearney	no
<i>Massachusetts</i>			M <sup>r</sup> Mitchell	no
M <sup>r</sup> Gorham	no	}no	<i>Maryland</i>	
M <sup>r</sup> King	no		M <sup>r</sup> Ross	no*
M <sup>r</sup> Dane	ay		<i>Virginia</i>	
<i>Connecticut</i>			M <sup>r</sup> Grayson	ay
M <sup>r</sup> Johnson	no	}no	M <sup>r</sup> Madison	no
M <sup>r</sup> Cook	no		M <sup>r</sup> Carrington	no
<i>New York</i>			M <sup>r</sup> H Lee	ay
M <sup>r</sup> Smith	ay	}div <sup>d</sup>	<i>North Carolina</i>	
M <sup>r</sup> Haring	no		M <sup>r</sup> Ashe	no
<i>New Jersey</i>			M <sup>r</sup> Burton	no
M <sup>r</sup> Cadwallader	no	}no	<i>South Carolina</i>	
M <sup>r</sup> Clark	no		M <sup>r</sup> Kean	no
<i>Pensylvania</i>			M <sup>r</sup> Huger	no
M <sup>r</sup> S <sup>t</sup> Clair	no	}no	M <sup>r</sup> Butler	no
M <sup>r</sup> Irwin	no			
M <sup>r</sup> Bingham	no			

So it passed in the Negative.

On the question to agree to the motion of M<sup>r</sup> [Edward] Carrington the yeas and nays being required by M<sup>r</sup> [Nathan] Dane



<i>New Hampshire</i>			<i>Delaware</i>	
M <sup>r</sup> Gilman	ay*		M <sup>r</sup> Kearney	ay } ay
<i>Massachusetts</i>			M <sup>r</sup> Mitchell	ay }
M <sup>r</sup> Gorham	ay	}	<i>Maryland</i>	
M <sup>r</sup> King	ay		M <sup>r</sup> Ross	ay*
M <sup>r</sup> Dane	no		<i>Virginia</i>	
<i>Connecticut</i>			M <sup>r</sup> Grayson	no
M <sup>r</sup> Johnson	no	}	M <sup>r</sup> Madison	ay
M <sup>r</sup> Cook	no		M <sup>r</sup> Carrington	ay
			M <sup>r</sup> H Lee	no
<i>New York</i>			<i>North Carolina</i>	
M <sup>r</sup> Smith	no	}	M <sup>r</sup> Ashe	ay
M <sup>r</sup> Haring	no		M <sup>r</sup> Burton	ay
<i>New Jersey</i>			<i>South Carolina</i>	
M <sup>r</sup> Cadwallader	ay	}	M <sup>r</sup> Kean	ay
M <sup>r</sup> Clark	ay		M <sup>r</sup> Huger	ay
<i>Pensylvania</i>			M <sup>r</sup> Butler	ay
M <sup>r</sup> S <sup>t</sup> Clair	ay	}		
M <sup>r</sup> Irwin	ay			
M <sup>r</sup> Bingham	ay			

So the question was lost.

<sup>1</sup> Congress then resumed the consideration of the report of the committee and thereupon

*Resolved* <sup>2</sup> That the quotas assigned to the several ships which were under the command of cap<sup>t</sup> J. P. Jones in Europe by direction of the court of France be confirmed and considered as valid and that a distribution of the prize Money be made amongst the crews of the said ships separately agreeably to such quotas.

*Resolved* <sup>2</sup> That the monies paid by capt J P. Jones into the hands of the honorable Tho<sup>s</sup> Jefferson be distributed by the board of treasury as soon as may be among the captors agreeably to the division made thereof under the direction of the court of France.

<sup>1</sup> Charles Thomson agains resumes the entry.

<sup>2</sup> These resolves were recommended in the committee report. See October 9, 1787.

*Resolved* That the balance remaining in the hands of capt J P. Jones rest until Congress shall give further directions concerning it.

FRIDAY, OCTOBER 12, 1787.

Congress assembled present as yesterday.

<sup>1</sup> On a report <sup>2</sup> of the board of treasury in consequence of the Act of 18 July

*Resolved* That the balance of the appropriation for the Barbary treaties of the 14 febr<sup>y</sup> 1785 not hitherto applied to that Object be and it is hereby constituted a fund for redeeming the American captives now at Algiers and that the same be for this purpose subject to the direction of the Minister of the United States at the court of Versailles.

That the Acts of Congress of the 14 february 1785 <sup>3</sup> and such part of the resolves of the 18<sup>th</sup> July 1787 as directs provision to be made for the above object be and they are hereby repealed.

On a report <sup>4</sup> of the board of treasury to whom was referred a letter <sup>5</sup> from the hon<sup>b<sup>l</sup>e</sup> M<sup>r</sup> J Adams of the 24 febr<sup>y</sup> last together with an Account<sup>6</sup> of M<sup>r</sup> Rich<sup>d</sup> Harrison of Cadiz

*Resolved* That the board of treasury take Order for reimbursing to M<sup>r</sup> Richard Harrison merchant of Cadiz the sum of three hundred and thirty one dollars and one quarter of a dollar being the amount of his advances for the maintenance

<sup>1</sup> From this point to the end of the proceeding on the disposition of the balance of the appropriation for the Barbary treaties the margin of the *Journal* is marked with dots. The proceeding was then entered by Benjamin Bankson and attested by Charles Thomson in the *Secret Journal Foreign, Papers of the Continental Congress*, No. 6, III, p. 413. It was also entered by Bankson in the *Secret Journal, Foreign Affairs, Papers of the Continental Congress*, No. 5, III, p. 1678.

<sup>2</sup> See July 31, 1787.

<sup>3</sup> *Journals*, vol. XXVIII, pp. 65-66.

<sup>4</sup> See October 9, 1787

<sup>5</sup> See July 30, 1787.

<sup>6</sup> See July 6, 1787.

of the captain and Crew of the ship Betsy James Erwing commander whilst detained by the Moors and for provision for subsisting the crew on their passage to America.

On a report<sup>1</sup> of the board of treasury to whom was referred a memorial<sup>2</sup> of the Canadian refugees on lake Champlain praying for a continuance of the supply of public provisions

*Resolved* That such of the aged and infirm amongst the said Canadians as may not be able to provide for the subsistence of themselves and families be supplied for the space of twelve Months with rations at the public expence (excepting the articles of rum soap and candles) agreeably to such a return of persons coming under the above description as shall be made to the board of treasury by the secretary at war.

On motion<sup>3</sup> of M<sup>r</sup> [Rufus] King seconded by M<sup>r</sup> H Lee

*Resolved* that Congress proceed to the election of a minister plenipotentiary to reside at the Court of France and that his commission commence from the expiration of the present commission of the hon<sup>ble</sup> Thomas Jefferson and continue in force for the term of three years unless sooner revoked by Congress.

Congress accordingly proceeded to the Election and the ballots being taken

The hon<sup>ble</sup> Thomas Jefferson was elected.

Congress resumed the Consideration of the report<sup>4</sup> of the Committee relative to Indian Affairs in the Northern department

<sup>1</sup> See October 2, 1787.

<sup>2</sup> See September 24, 1787.

<sup>3</sup> This proceeding regarding the minister to France, was also entered by Thomson in the *Secret Journal, Foreign Affairs, Papers of the Continental Congress*, No. 5, III, p. 1674.

<sup>4</sup> See August 9, 1787. See October 22, 1787.

And on Motion <sup>1</sup> of M<sup>r</sup> [Rufus] King seconded by M<sup>r</sup> [John] Kean

*Resolved* <sup>2</sup> That twenty thousand dollars be and hereby are appropriated for the purpose of ~~holding~~ Indian treaties whenever the same shall be hereafter judged necessary by a majority of the United States in Congress Assembled and that the resolutions for holding a general treaty with the Indians passed the fifth of the present Month be and they are hereby repealed.

[Report of committee on lands for military bounties <sup>3</sup>]

The Committee consisting of M<sup>r</sup> [Edward] Carrington M<sup>r</sup> [Rufus] King M<sup>r</sup> [Nathan] Dane, M<sup>r</sup> [James] Madison and M<sup>r</sup> [Joseph Platt] Cook to whom was referred a letter of the Secretary at War of the 26<sup>th</sup> of April last, beg leave to submit to the Consideration of Congress the following resolution Viz,

That a Tract of land to be bounded by \_\_\_\_\_ be reserved and set a part for the purpose of satisfying the Military Bounties due to the late Army, and that no locations other than for the said Bounties be permitted within the said Tract, until they shall be fully ~~gratified~~ satisfied.

[Report of Secretary at War on case of J. Sullivan <sup>4</sup>]

The Secretary of the United States for the department of War to whom was referred a part of the Report of the Secretary of Foreign Affairs on the case of John Sullivan,

Reports,

That whatever judgement a Court Martial might have passed on John Sullivan for his supposed conduct in Philadelphia in the month

<sup>1</sup> *Papers of the Continental Congress*, No. 30, p. 321, in the writing of Mr. Rufus King.

<sup>2</sup> This resolve is entered by John Fisher in *Western Territory, Papers of the Continental Congress*, No. 176, p. 16.

<sup>3</sup> *Papers of the Continental Congress*, No. 27, p. 347, in the writing of Mr. Edward Carrington. The report was read October 12 and passed October 22, 1787. See May 2, 1787.

<sup>4</sup> *Papers of the Continental Congress*, No. 151, pp. 299-302, read October 12, and passed October 13, 1787. See October 4 and 8, 1787.

of June 1783, while he with the greater part of the Army were furloughed as a preparatory step to their being discharged, yet after the Army were actually dissolved by the proclamation of Congress on the 18<sup>th</sup> November 1783 without any exceptions being made it may be a questionable point, whether he or any other person could be legally tried by a court martial for crimes committed during the existence of the Army.

That were such an attempt to be made at this late period it might be considered as an unusual stretch of power, and injurious to the reputation of the United States.

That most probably it would be utterly impracticable at this time to procure substantial evidence to convict the said Sullivan before a court of judicature of his having instigated and directed the insult on the peace and dignity of the government of Pennsylvania by the mutiny which took place in the City of Philadelphia in the month of June 1783.

But as it is evident if credit can be given to the letter of said Sullivan that he will to the utmost of his power endeavor to interrupt and injure the harmony subsisting between the United States and the Crown of Spain, it may be highly proper to direct the commanding Officer on the Ohio, that if the said Sullivan or other evil minded persons should come within the federal territory, and attempt to excite hostility against, or forcible inroads into the dominions of Spain, that he or they be seized and confined by the troops of the United States in order to be tried in such mode as shall on deliberation be found legal and expedient.

Agreeably to this idea the following Resolve is submitted.

Whereas a certain John Sullivan [stiling himself "late capt 4 regiment American light dragoons"] has written an inflammatory and unwarrantable letter to the Encargado de Negocios of his Catholic Majesty bearing date the first of March 1787 tending to interrupt and injure the peace and mutual confidence which so happily subsist between the United States and his said Catholic Majesty therefore

*Resolved* That the Secretary at War direct the commanding officer of the troops of the United States on the Ohio, that if a certain [if the said] John Sullivan, or other evil minded persons, should come within the federal territory and there attempt to excite, or prosecute hostility against, or forcible inroads into, the dominions of Spain, that he cause the said Sullivan, or such other persons, to be seized, and

confined, in order that he, ~~or they~~, may be legally tried, and punished according to the nature and degree of their [his] crimes.<sup>1</sup>

All which is humbly submitted to Congress

H KNOX

WAR OFFICE 11<sup>th</sup> October 1787

[Report of Secretary at War on memorial of T. Cushing <sup>2</sup>]

The Secretary of the United States for the department of war to whom was referred the memorial<sup>3</sup> of Captain Thomas H Cushing  
Reports

That it appears from the muster rolls of the first Massachusetts regiment that Thomas Cushing was entitled on the 2<sup>d</sup> of November 1780 to succeed to the rank of Captain lieutenant according to the then system of promotion which was regimental to the rank of captain inclusive.

That it appears from the representations of the said Thomas Cushing and the evidence of authentic papers that Colonel Vose the commanding officer of the regiment reported, on the 2<sup>d</sup> day of November aforesaid to the Governor of Massachusetts the vacancies in his regiment and requested warrants accordingly but that two days afterwards to wit on the 4<sup>th</sup> of said November he wrote the letter to the executive of which the enclosed is an authentic copy requesting for the reasons therein contained that the warrants might not be forwarded.

But notwithstanding the said second letter the warrants were transmitted and received by Colonel Vose on or about the 15 February 1781 agreeably to the first letter.

That Colonel Vose refused delivering the warrants as well to the said Thomas Cushing as to two other senior subalterns entitled to become Captains by the same vacancies which entitled the said Cushing to become a captain Lieutenant.

That the said senior subalterns and the said Cushing were arranged as subalterns in the new arrangement which took place on the 1<sup>st</sup> of January 1781.

<sup>1</sup> The changes in this paragraph were made by Thomson to bring it into agreement with the adopted resolve.

<sup>2</sup> *Papers of the Continental Congress*, No. 151, pp. 303-308, read October 12, 1787. See February 11 and June 11, 1788.

<sup>3</sup> See October 6 1787.

That it is highly probable that the two senior subalterns were induced to acquiesce in the conduct of Colonel Vose in withholding their warrants because had they received them at the time they were entitled thereto they would have been liable to have been deranged as junior captains as the Massachusetts line was reduced from 16 to 10 regiments whereas by continuing senior lieutenants they would be retained in service.

But the same reasons did not operate with M<sup>r</sup> Cushing because although the semi-rank of Captain Lieutenant placed him above the lieutenants it did not prevent his serving in that grade.

That had he actually received the warrant at the time he was entitled thereto he would in the process of service to wit on the 12<sup>th</sup> October 1782 have been entitled to a vacancy of a captaincy which was filled by a senior lieutenant in the line; the mode of promotion having been changed from being regimental to be lineal by the resolve<sup>1</sup> of Congress of the 25<sup>th</sup> May 1782.

On this statement your Secretary observes generally that the variety of terms on which the late army were originally engaged and the repeated alterations and changes in the systems of promotion involved the subject of rank in the greatest perplexity which consumed the time and attention of officers of high rank which otherwise might have been more beneficially employed besides being the cause of the resignations of a great number of valuable officers who supposed themselves injured by the decisions on their cases.

That on all complaints of injury in rank it was customary for the Commander in Chief to direct an enquiry into the circumstances and to be reported to him.

That it does not appear what measures were taken in the case of M<sup>r</sup> Cushing. Indeed his opportunities for redress were not great as on the second day after the warrants were received from Massachusetts Colonel Vose was ordered from West point to the southward and did not return until the latter end of 1781 or the beginning of 1782. And in May 1781 M<sup>r</sup> Cushing was taken prisoner and did not re-join the regiment until May 1783. Whether such circumstances then existed as to preclude enquiry or redress your secretary cannot determine.

<sup>1</sup> This refers apparently to the resolve of May 25, 1781. See *Journals*, vol. XX, pp. 539-541.

But it appears that soon after the peace M<sup>r</sup> Cushing brought an action in a court of law for damages against Colonel Vose for not delivering the warrant to him to which he was entitled on the 2<sup>d</sup> of November 1780. It also appears by two references to officers of the late army in consequence of a rule of the Supreme court of Massachusetts that damages and costs were awarded to M<sup>r</sup> Cushing.

It appears that the said Thomas H Cushing is highly solicitous that Congress would direct that he receive the actual commission of Captain bearing date the 12<sup>th</sup> of October 1782. But your secretary apprehends that this cannot be the case as the evidence of the appointment of the state to said rank is wanting, the only document whereon commissions can be founded.

If however Congress should judge that the said Thomas H Cushing's claim to the said vacancy of the 12<sup>th</sup> of October 1782 is as well founded as if he had an actual appointment from the State and that notwithstanding said vacancy was filled by another that he ought to receive the rank and emoluments from that time they will please to resolve

That the secretary at war deliver to Thomas H Cushing a brevet commission of Captain to rank from the 12<sup>th</sup> of October 1782 and to operate as the other brevet commissions in the late army operated and that the commissioner of army accounts allow the said Thomas H Cushing the difference of pay and emoluments between a captain and lieutenant from the said 12<sup>th</sup> of October 1782 to the end of the war.

Or in case Congress should be of opinion that he ought to have the rank but not the emoluments the following resolve is submitted

That the secretary at War deliver to Thomas H Cushing a brevet commission of Captain to take rank the 12<sup>th</sup> of October 1782, to have the same operation as the other brevet commissions given during the late war.

But if it should be the judgment of Congress that this matter ought to have been settled during the late war and that a decision of this nature cannot with propriety be made at this late period the following resolve is submitted

*Resolved* That the petition of Thomas H Cushing for rank and emoluments in the late army cannot be granted

H KNOX

WAR OFFICE, October 11<sup>th</sup> 1787



[Report of Postmaster General on route of Southern mail <sup>1</sup>]

GENERAL POST OFFICE *Oct. 11<sup>th</sup> 1787.*

SIR: Having been honored by a Reference of the enclosed Motion,<sup>2</sup> I beg leave to Report;

That as the route therein proposed has not been the Post's Route, it has not been visited either by myself or my Assistant, for which Reason I have not a sufficient Acquaintance with it to enable me to form a proper Judgment respecting it.

That, from consulting a Map of the Country, and Information received otherwise, the proposed Route appears to be shorter than the present, and that some large Ferries would be avoided by adopting it, which are Advantages worthy of Attention;

That, on the other hand, Disadvantages present themselves. Should the proposed Route be adopted, the Sea Ports, which are important on Account of their Connection with foreign Countries, as well as with the several Parts of the Union, would be deprived of an Advantage they have always hitherto enjoyed, and the Union itself might suffer by closing these Avenues through which Information from foreign Parts might pass; this Measure would also, beyond a doubt, excite Discontents and Clamors throughout the whole Extent of Sea Coast, from Virginia to Georgia. Should Cross Posts be proposed to prevent these Inconveniencies, new Difficulties arise from the Expence attending their Establishment, which must be great; the following will be necessary; viz<sup>t</sup>

From the new Route to Suffolk;  
to Edenton;  
to Newbern;  
to Wilmington;  
to George Town;  
to Charleston;  
and to Savannah.

This Expence, which cannot now be calculated for want of necessary Data, added to that of the whole Line from Petersburg to Augusta, I apprehend, will considerably exceed what is paid at present for the Carriage of the Mail from Petersburg to Savannah; and should the

<sup>1</sup> *Papers of the Continental Congress*, No. 61, pp. 403-405, read October 12 and acted on October 15, 1787.

<sup>2</sup> See October 10, 1787.

Population of the Country not be equal, the Income will be proportionably less.

That, as Trade is the principal, and almost only, Support of the Post Office Department, and the important trading Towns lie generally on the Sea Coast, it is to be feared that the proposed Alteration would materially injure the Revenue, and thus, while it encreased Expences, would deprive of the means of paying them.

That, as no hint of an Alteration of the Post Road has been publicly given, and the Route from *Suffolk* to *Savannah* has been particularly mentioned, in the Advertisement from this Office, pursuant to a former Act of Congress; the Proposals will undoubtedly be for Contracts upon that Route; and there is not sufficient Time remaining between this and the last Day of December, to advertise for, and receive Proposals for Contracts, to establish Post Offices, and make the other Arrangements which an Alteration of the Road will render necessary.

Upon the whole, Sir, I beg leave to give it as my Opinion that it will not be adviseable to make the proposed Alteration in the Post Road, before particular Information can be obtained respecting the various Circumstances necessary to be attended to; the coming Year will furnish sufficient Opportunity for collecting it; and, should the Measure then be deemed expedient, the Alteration may be made, free from present Embarrassments, at least from such as unavoidably arise from the advanced Period of the present Contract.

It is evidently proper to vest in the Postmaster General the discretionary Power mentioned in the concluding Paragraph of the Motion, and I think a considerable Saving might be made if he possessed it throughout the whole Extent of the Post Road. At present he is obliged to contract with the Proprietors of the Stages, if it is *practicable*, without attending to any other Circumstance; it was so last Year; and the Proprietors made their Advantage of it; for, knowing the Restrictions he was under, some of them demanded, and he was obliged to allow them a larger Sum for carrying the Mail for this Year than was allowed for the last. I have Information upon which Dependance can be placed, that the Demands are now to be still more encreased, and a Reference to the Act of Congress of the 26<sup>th</sup> July last will convince your Excellency that I am under the same Restrictions as before. It is unnecessary to enlarge here, as the Files of Congress already contain a full Discussion of this Subject; I shall therefore take the Liberty of respectfully submitting the above

Remarks, and of assuring your Excellency that I have the Honor to be, etc.,

EBEN HAZARD

[Report of Secretary for Foreign Affairs on loan contract <sup>1</sup>]

OFFICE FOR FOREIGN AFFAIRS

12<sup>th</sup> October 1787

The Secretary of the United States for the Department of foreign Affairs, to whom was referred a Letter of the 16<sup>th</sup> June, 1787 with the Contract therein mentioned,

Reports

That this Contract appears to him to have been made under such Circumstances as to render it expedient to ratify it, and therefore in his Opinion it would be proper for Congress to ratify it in the usual Form.

All which submitted to the Wisdom of Congress.

JOHN JAY.<sup>2</sup>

SATURDAY, OCTOBER 13, 1787.

Congress assembled. Present Massachusetts New York New Jersey, Pennsylvania, Delaware, Virginia, North Carolina and South Carolina and from New Hampshire M<sup>r</sup> [Nicholas] Gilman, from Connecticut M<sup>r</sup> [Joseph Platt] Cook from Maryland M<sup>r</sup> [David] Ross and from Georgia M<sup>r</sup> [William] Few.

<sup>1</sup> *Papers of the Continental Congress*, No. 81, III, p. 23, read October 12, 1787. The report is endorsed "This business done the 11<sup>th</sup>"

<sup>2</sup> OCTOBER 12, 1787. According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 172, the following committee was appointed:

Mr. Rufus King, Mr. William Grayson and Mr. John Kean on a letter of Richard Randolph, August 25, 1785, requesting pay for flour captured by the enemy in 1776. This was a renewal of a committee of October 3, 1785. See *Journals*, vol. XXIX, p. 805 n.

Also according to the *Committee Book, Papers of the Continental Congress*, No. 190, pp. 163 and 171, and the *Reports of Committees, Papers of the Continental Congress*, No. 189, p. 26, the committee of July 31 and October 3, 1787, on memorial of Mrs. Hannah Douglas and half pay of officers reported.

[Report of Board of Treasury on memorial of E. Coupar and  
W. Ballard <sup>1</sup>]

The Board of Treasury to whom was referred the Petition <sup>2</sup> of Edward Coupar, and William Ballard,

Beg leave to Report,

That the Memorialists claim compensation for their service, and Expences, in proceeding as Pilots, from the State of Virginia, to Philadelphia, in the Year 1775; in pursuance of directions given by the Marine Committee; in order to Pilot the Fleet of Commodore Hopkins, to the Coast of Virginia.

That, on a former Application on this Account, from the same parties, it appears that the late Agent of Marine, reported <sup>3</sup> on the 16<sup>th</sup> July 1783,

“That the services rendered by Mess<sup>rs</sup> Coupar and Ballard, were previous to the Requisitions for the services of 1782, and 1783; so that no Monies now in the Treasury can properly be applied to the Payment of what those services may, on a proper investigation, appear to be really worth.

“That the Commissioner appointed to settle the Accounts of the United States, in Virginia, is authorised to adjust the value of services, rendered by the citizens thereof, to the United States, at the time, and place, where they were rendered, according to the principles of Equity, and authority which is vested in him, completely and exclusively: That therefore Mess<sup>rs</sup> Cooper and Ballard, must apply to the said Commissioner, who, if he should find the United States, to be in their Debt, will give them Certificates, like to those, which are given to other creditors of the said States; and will transmit such materials to the Commissioner for settling the Accounts of the Marine Department, as will enable him to make proper charges in those Accounts;” which Report was agreed to by Congress.

That since the date thereof, no Provision has been made by any Requisitions, for paying in Specie, any claims which have originated, previous to the period above stated; The Board are therefore of

<sup>1</sup> *Papers of the Continental Congress*, No. 138, I, pp. 263–265, delivered October 13, 1787.

<sup>2</sup> See *Journals*, vol. XXX, p. 344n. According to indorsement on the report, the petition and papers were sent to the Commissioner of Marine and Hospital Department on October 13, 1787.

<sup>3</sup> *Journals*, vol. XXIV, p. 435–436.

Opinion, that the claim of the Memorialists, must be liquidated, in the same manner, with other claims, against the United States; and in order to effect this, (as the Office of the State Commissioner is abolished, and the claim is founded on an Expenditure, in the Marine Department,) they submit to the consideration of Congress, the following Resolve,

That the claim of Cooper and Ballard, of the State of Virginia, be referred for Examination, and final adjustment, to the Commissioner of Accounts, for the Marine Department.

All which is humbly Submitted.

SAMUEL OSGOOD  
WALTER LIVINGSTON  
ARTHUR LEE

BOARD OF TREASURY  
October 12<sup>th</sup> 1787.

On a report of the board of treasury to whom was referred a petition of Edward Cooper and William Ballard

*Resolved* That the claim of Cooper and Ballard of the State of Virginia be referred for examination and final adjustment, to the commissioner of Accounts for the marine department.

<sup>1</sup> On a report <sup>2</sup> of the Sec<sup>y</sup> at War to whom was referred an extract of a report <sup>3</sup> of the Sec<sup>y</sup> for foreign Affairs on the case of John Sullivan

Whereas a certain John Sullivan, stiling himself "late captain 4 regiment American light dragoons" has written an inflammatory and unwarrantable letter to the Encargado de Negocios of his Catholic Majesty bearing date the first day of March 1787 tending to interrupt and injure the peace and mutual confidence which so happily subsist between the United States and his said Catholic Majesty therefore

<sup>1</sup> From this point to the end of the proceeding on John Sullivan the margin of the *Journal* is marked with dots to indicate transfer to the *Secret Journals*. See below.

<sup>2</sup> See October 12, 1787.

<sup>3</sup> See October 4 and 8, 1787.

*Resolved* That the Secretary at War direct the commanding officer of the troops of the United States on the Ohio, that, if the said John Sullivan come within the federal territory, he cause the said J. Sullivan to be seized and confined in order that he may be legally tried and punished according to the nature and degree of his crime.

On a report <sup>1</sup> of the Secretary for foreign Affairs to whom was referred a letter <sup>2</sup> to him from the Minister of the United Netherlands enclosing a Note of the same date complaining of an Act of the legislature of the Commonwealth of Virginia exempting french brandies imported in french and american vessels from certain duties to which the like commodities imported in dutch vessels are left liable as being contrary to the 2<sup>d</sup> Article in their treaty with the United States stipulating that they shall be treated as the most favoured Nation

*Resolved* That whenever any of these States shall think proper to grant a favour to any foreign Nation such State ought to extend it to such other foreign Nations as by treaties with the United States are to be treated as the most favoured Nation.

*Resolved* That a copy of the above resolution and of the representation of the Minister of the United Netherlands be transmitted to the Commonwealth of Virginia to the end that the legislature of that Commonwealth may take the earliest Opportunity of revising the Act of which the said Minister complains and rendering the same perfectly consistent with the treaty subsisting between the United States and the United Netherlands and of causing to be repaid whatever extra duties may in virtue of the said Act be exacted on the brandies there imported in dutch vessels during the Operation of the same.

<sup>1</sup> See March 15, 1787. See also August 2 and September 24, 1787. See *Secret Journal* below this date.

<sup>2</sup> See March 1, 1787.

<sup>1</sup> On a report <sup>2</sup> of the Secretary at War

Whereas a certain John Sullivan, stiling himself "late captain 4 regiment American light dragoons" has written an inflammatory and unwarrantable letter to the encargado de negocios of his Catholic Majesty bearing date the first day of March 1787 tending to interrupt and injure the peace and mutual confidence which so happily subsist between the United States and his said Catholic Majesty therefore

*Resolved* That the Secretary at War direct the commanding Officer of the troops of the United States on the Ohio that, if the said John Sullivan come within the federal territory, he cause the said J Sullivan to be seized and confined in order that he may be legally tried and punished according to the nature and degree of his crime.

A motion <sup>3</sup> being made by Mr [Pierce] Butler seconded by Mr [John] Kean that it be *Resolved* That Congress entertain the highest sense of the friendly disposition of his Catholic Majesty towards the United States and that it is their ardent desire and fixed intention to preserve uninterrupted that good understanding at present subsisting between the United States and his Catholic Majesty And that Congress should have given evidence of their friendship for his Catholic Majesty and his subjects by entering on an adjustment of every unsettled matter subsisting between them were they not prevented

<sup>1</sup> From this point to the end of the day the *Journal* entries were made by Charles Thomson and Richard Alden in the *Secret Journal, Foreign Affairs, Papers of the Continental Congress*, No. 5, III, pp. 1662-1672. Thomson begins the entry. The proceeding regarding John Sullivan was also entered by Benjamin Bankson, in the *Secret Journal Domestic, Papers of the Continental Congress*, No. 3, p. 237. See also *Public Journal* above.

<sup>2</sup> See October 12, 1787.

<sup>3</sup> *Papers of the Continental Congress*, No. 25, II, p. 485, in the writing of Mr. Pierce Butler.

for the present by pressing domestic concerns which engross the whole of their attention at this time." On the question to agree to this the yeas and nays being required by M<sup>r</sup> [Pierce] Butler

<i>New Hampshire</i>			<i>Delaware</i>	
M <sup>r</sup> Gilman	ay *		M <sup>r</sup> Kearny	no
<i>Massachusetts</i>			M <sup>r</sup> Mitchell	no
M <sup>r</sup> King	ay	} ay	<i>Maryland</i>	
M <sup>r</sup> Dane	ay		M <sup>r</sup> Ross	ay *
<i>Connecticut</i>			<i>Virginia</i>	
M <sup>r</sup> Cook	ay *		M <sup>r</sup> Grayson	no
<i>New York</i>			M <sup>r</sup> Madison	no
M <sup>r</sup> Haring	no	} div	M <sup>r</sup> R H Lee	ay
M <sup>r</sup> Smith	ay		M <sup>r</sup> H Lee	ay
<i>New Jersey</i>			<i>North Carolina</i>	
M <sup>r</sup> Cadwallader	no	} no	M <sup>r</sup> Ashe	no
M <sup>r</sup> Clarke	no		M <sup>r</sup> Burton	ay
<i>Pensylvania</i>			<i>South Carolina</i>	ay
M <sup>r</sup> S <sup>t</sup> Clair	ay	} d	M <sup>r</sup> Butler	ay
M <sup>r</sup> Irvine	no		<i>Georgia</i>	
			M <sup>r</sup> Few	no

So the question was lost.

The Secretary of the United States for the department of foreign Affairs to whom was referred a letter <sup>1</sup> to him from the Minister of the United Netherlands of the 20 of february last enclosing A note of the same date complaining of an Act of the legislature of the Commonwealth of Virginia exempting french brandies imported in french and American vessels from certain duties to which the like commodities imported in dutch vessels are left liable as being contrary to the Second Article in their treaty with the United States stipulating that they shall be treated as the most favoured Nation having reported <sup>2</sup>

<sup>1</sup> See March 1, 1787.

<sup>2</sup> See March 15, 1787. See also August 2 and September 24, 1787.



<sup>1</sup> That although he has no official knowledge of the said Act, yet from the account given of it in the said Note, and from other information, he believes that such an Act exists.

The second and third Articles in the treaty with France respect this subject, the second is in these words, "The most christian King and the United States engage mutually not to grant any particular favor to other nations in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same favor freely, if the concession was freely made, or on allowing the same compensation if the concession was conditional".

The second Article in the treaty with the United Netherlands on the same subject is in these words, viz. "The subjects of the said States General of the United Netherlands shall pay in the ports, havens, roads, countries, Islands, cities or places of the United States of America, or any of them, no other nor greater duties, or imposts of whatever nature or denomination they may be, than those which the nations the most favored are or shall be obliged to pay; And they shall enjoy all the rights, liberties, privileges, immunities, and exemptions in trade, navigation and commerce which the said Nations do or shall enjoy, whether in passing from one port to another in the said States, or in going from any of those ports to any foreign port of the world, or from any foreign port of the world to any of those ports.

It is observable that this Article takes no notice of cases where compensation is granted for privileges.

Reason and equity however in the opinion of Your Secretary will supply this deficiency, and give to both articles exactly the same construction and operation in

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

those cases. Where a privilege is gratuitously granted, the nation to whom it is granted, becomes in respect to that privilege a favored Nation, and from that circumstance both the Articles in question deduce claims to the like favor, but where the privilege is not gratuitous, but rests on compact, in such case, the favor, if any there be, does not consist in the privilege yielded, but in the consent to make the contract by which it is yielded: for bargains may from their objects and circumstances be sometimes so made, as that the consent to make them, may be deemed a favor. The favor therefore of being admitted to make a similar bargain, is all that in such cases can reasonably be demanded under the article; Besides, it would certainly be inconsistent with the most obvious principles of Justice and fair construction, that because France purchases at a great price, a privilege of the United States, that therefore the Dutch shall immediately insist, not on having the like privilege, at the like price, but without any price at all.

Supposing that this reasoning is just and that the Article ought to be so construed, then the first question that presents itself in the present case is, whether the Grant by Virginia to France of the privilege in question is gratuitous or not?

From the tenor of the Act it does appear to Your Secretary to be gratuitous, and not to partake in the least of the nature of compact.

If this be the true construction of the Act, then in the opinion of Your Secretary, France did thereupon become in respect to the privilege granted, a favored nation, and the Dutch having a right to be treated as the most favored nation, have a just claim to be favored in like manner.

But they are not favored in like manner, and they complain of it; and hence arises another question viz. What is to be done?

According to the present state of our national Government, the Act of Virginia will doubtless continue to exist, and the Dutch will continue to pay more duties than the French on brandies imported there, until the Act is repealed.

However well disposed Virginia may be, and doubtless is, to correct every mistake, yet some time must elapse before the next Session of their Legislature, and therefore the repeal of the Act cannot take place immediately.

Your Secretary thinks the two following Resolves would be proper, viz.

*Resolved* that whenever any of these States shall think proper to grant a favor to any foreign Nation, such State ought to extend it to such other foreign Nations, as by treaties with the United States are to be treated as the most favored Nations.

*Resolved*, that a copy of the above resolution and of the representation of the Minister of the United Netherlands be transmitted to the commonwealth of Virginia, to the end that the Legislature of that commonwealth may take the earliest opportunity of revising the Act of which the said Minister complains, and rendering the same perfectly consistent with the treaty, subsisting between the United States and the United Netherlands and of causing to be repaid whatever extra duties may in virtue of the said Act, be exacted on the brandies there imported in dutch vessels, during the operation of the same.

As the United States have at present no Minister or Representative at the Hague, through whom it would be most proper to convey whatever Congress might think

proper to communicate to their High Mightinesses on the occasion; Your Secretary thinks it would be well to quiet the minds of the States General on this subject, by directing that copies of the foregoing Resolutions be given to their Minister, and that he be requested to assure their High Mightinesses, that Congress are well persuaded that the omission of Virginia in not extending to them the favor granted to France, was entirely inadvertent and not designed; and they flatter themselves that the said resolutions, and the respect with which they will be treated by Virginia will fully manifest to their High Mightinesses, the good faith and friendship of the United States in general, and of Virginia in particular.

Your Secretary thinks he ought not to close this report without adding a few remarks which the consideration of this subject suggests, and which make a strong impression on his mind.

If Individual States go into the practice of granting favors to foreign nations, of what nature will those favors be, and what tendency will such a practice have?

By the 6<sup>th</sup> Article of the confederation no particular State can send or receive Ambassadors, enter into negociations, contract engagements, form Alliances, nor conclude treaties with any Kings, Princes or States whatever, without the consent of the United States Assembled in Congress.

This Article appears to have been calculated to preserve uniformity, not only in our political, but also in our commercial Systems.

If no Individual State can contract with a foreign power, it follows that the States individually can grant no privileges otherwise than gratuitously.

But would not such a practice naturally tend to introduce a commerce of favors and of privileges, and en-

courage private intrigues and influence to promote and direct it? Would not the uniformity and equality of our commercial system be thereby insensibly deranged? Would not the balance of foreign privileges in time become in favor of some States, and against others; and would not the latter be often constrained to grant favors as inducements to obtain others? Thus by degrees there would be favored and favourite States, thus by degrees the federal head would become less and less important, and the bands of the union become more and more loose and ineffectual.

Your Secretary in making these remarks has no particular State in his eye, he means them as general remarks, and hopes they will be so received and understood.

Whereupon Congress came to the following resolutions<sup>1</sup>

\*            \*            \*            \*            \*            \*

[Report of Secretary of Congress on letter of T. Hutchins<sup>2</sup>]

On the letter<sup>3</sup> of M<sup>r</sup> T. Hutchins and Application from sundry surveyers therein enclosed, stating their loss of time and praying for a compensation

The Sec<sup>y</sup> of Congress reports

That the letter of M<sup>r</sup> Hutchins with the Application and papers enclosed be referred to the board of treasury to report.

<sup>1</sup> Here follow the resolves which were entered on the *Public Journal* above on this same date.

<sup>2</sup> *Reports of Secretary of Congress, Papers of the Continental Congress*, No. 180, p. 65.

<sup>3</sup> According to the *Despatch Book, Papers of the Continental Congress*, No. 185, IV, p. 20, this letter was dated October 11 and received October 12, 1787.

MONDAY, OCTOBER 15, 1787.

Congress assembled present Massachusetts New York New Jersey, Pennsylvania, Delaware, Virginia, North Carolina and South Carolina and from New hampshire M<sup>r</sup> [Nicholas] Gilman, from Rhode Island M<sup>r</sup> [James Mitchel] Varnum, from Connecticut M<sup>r</sup> [Joseph Platt] Cook, from Maryland M<sup>r</sup> [David] Ross and from Georgia M<sup>r</sup> [William] Few.

On motion<sup>1</sup> of M<sup>r</sup> H[enry] Lee seconded by M<sup>r</sup> [Edward] Carrington

*Resolved* That the postmaster general be and he is hereby authorised to contract for the transportation of the mail for the year 1788 by stage carriages or horses as he may judge most expedient and beneficial; provided that preference is given to the transportation by stages to encourage this useful institution, when it can be done without material injury to the public and that the Mail be conveyed three times per week from the first of May to the first of November and twice a week from the first of Nov<sup>r</sup> to the first of May from Portland in Massachusetts to Suffolk in Virginia; and twice a week from the first of May to the first of November and once a week from the first of November to the first of May from Suffolk to Savannah in Georgia.

On motion<sup>2</sup> of M<sup>r</sup> [William] Few seconded by M<sup>r</sup> H[enry] Lee

*Resolved* That the postmaster general be and he is hereby authorised to alter the route from Petersburg in Virginia to Savannah in Georgia, to Augusta in Georgia provided he may judge it beneficial and expedient and that in case of such alteration he establish cross posts agreeably to the principles provided in the resolve of the 15<sup>th</sup> of febr<sup>y</sup> 1787, to the commercial towns on the sea coast.

<sup>1</sup> *Papers of the Continental Congress*, No. 61, p. 565, in the writing of Mr. Henry Lee. See October 10 and 12, 1787.

<sup>2</sup> Motion of Mr. Rufus King, in his writing. *Papers of the Continental Congress*, No. 61, p. 564.

[Report of Secretary for Foreign Affairs on letter of T. Jefferson<sup>1</sup>]

OFFICE FOR FOREIGN AFFAIRS

12<sup>th</sup> October 1787

The Secretary of the United States for the Department of foreign Affairs, to whom was referred a Letter<sup>2</sup> of 21<sup>st</sup> June last from M<sup>r</sup> Jefferson, respecting the Arrest of the american Consul General in France, the proposed Post-Office Convention, and the Claims of certain Individuals against South Carolina,

Reports,

That his Report<sup>3</sup> of the 26<sup>th</sup> September last on the Petition of Mess<sup>rs</sup> French and Nephew, at whose Suit the Consul was arrested, expresses the Opinion of your Secretary on the Legality of that Arrest; and he still thinks that no Consuls should be exempted from Suits and Arrests for their own proper Debts.

But as the Arrest and Imprisonment of an american Consul General is a Circumstance which must hurt the Feelings of the United States, and in some Degree wound their Dignity, it may be proper to enquire what Measures it would be proper to take on this Occasion.

He thinks it would be adviseable to pass the Resolution recommended in the abovementioned Report, declaring that all american Consuls in foreign Parts, and all foreign Consuls here, are liable to Arrests &ca;

That your Secretary should in an informal Manner intimate to the Consul General in Question, that his Arrest and Imprisonment have given Congress much Concern, both on his Account and that of the United States. That they wish he would endeavor so to settle with his Creditors, as that he may return to France early in the Spring, without any Risque of the like Treatment in future. That although his character and Services will always induce Congress to regret every Circumstance that may hurt either his Feelings or his Fortune, yet that the Respect due to the Dignity of the United States has also strong claims to their Attention and care.

Your Secretary thinks it his Duty to inform Congress that, as well from the Opinion of M<sup>r</sup> Jefferson as from other Circumstances, he

<sup>1</sup> *Papers of the Continental Congress*, No. 81, III, pp. 27-29, read October 15, 1787.

<sup>2</sup> See September 20 and 21, 1787. According to indorsement on the report Jefferson's letter was transmitted to the Office for Foreign Affairs.

<sup>3</sup> See September 26, 1787.

has Reason to believe that the Conduct of the Consul respecting his creditors has not merited the harsh Treatment he has received from them.

As to the proposed Post-Office Convention, your Secretary refers to his Reports<sup>1</sup> of the 21<sup>st</sup> February and 29<sup>th</sup> March 1786 which are now before Congress.

As to the claims of certain Individuals against the State of South Carolina, your Secretary thinks that an Extract from M<sup>r</sup> Jeffersons Letter on that Subject, together with copies of the Papers which he enclosed relative to it, should be transmitted to the State of South Carolina, in order that such Measures may thereupon be taken, as the good Faith of that State, and the Justice due to the Individuals in Question may appear to dictate.<sup>2</sup>

All of which is submitted to the Wisdom of Congress.

JOHN JAY.

TUESDAY, OCTOBER 16, 1787.

Congress assembled. Present as yesterday.

On Motion<sup>3</sup> of M<sup>r</sup> H[enry] Lee ~~seconded by~~

*Resolved* That Congress proceed to the election of the judges for the western territory and the commissioners for settling the Accounts between the United States and the individual States.

Accordingly Congress proceeded to the Election of the Judges and the ballots being taken

Samuel Holden Parsons Esq<sup>r</sup>

John Armstrong jun Esq<sup>r</sup>

James Mitchell Varnum esq<sup>r</sup> were elected.

<sup>1</sup> *Journals*, vol. XXX, pp. 80-82 and 141-144, respectively.

<sup>2</sup> According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 173, this last paragraph of the report was referred to the Secretary for Foreign Affairs to take order.

<sup>3</sup> *Papers of the Continental Congress*, No. 36, III, p. 389, in the writing of Mr Henry Lee. This motion and proceeding so far as relates to the Judges for the Western territory were entered by John Fisher in *Western Territory, Papers of the Continental Congress*, No. 176, p. 17.



Congress proceeded to the election of Commissioners but not coming to a choice the election was postponed till the morrow.

On Motion<sup>1</sup> of M<sup>r</sup> [Edward] Carrington

*Resolved* Unanimously That a medal of gold be struck and presented to the Chevalier John Paul Jones in commemoration of the valour and brilliant services of that Officer in the command of a squadron of french and American ships under the flag and commission of the United States off the coast of ~~England~~ Great Britain in the late war; And that the Honorable M<sup>r</sup> Jefferson Minister plenipotentiary of the United States at the Court of Versailles have the same executed with the proper devices.

*Resolved*<sup>2</sup> That a letter be written to his Most Christian Majesty informing him that the United States in Congress Assembled<sup>3</sup> have bestowed upon the Chevalier John Paul Jones this medal as well in consideration of the distinguished marks of approbation which his Majesty has been pleased to confer upon that Officer as from a sense of his merit; And that as it is his earnest desire to acquire greater knowledge in his profession, it would be acceptable to Congress that his Majesty would be pleased to permit him to embark with his fleets of evolution; convinced that he can no where else so well acquire that knowledge which may hereafter render him more extensively useful.

<sup>1</sup> *Papers of the Continental Congress*, No. 19, III, p. 315, in the writing of Mr. Edward Carrington. This resolve and the following respecting J. P. Jones were also entered by Charles Thomson in *Secret Journal, Foreign Affairs, Papers of the Continental Congress*, No. 5, III, pp. 1674-1675.

<sup>2</sup> *Papers of the Continental Congress*, No. 19, III, p. 313, in the writing of Mr. Edward Carrington.

<sup>3</sup> The original draft of the motion read "have been pleased to promote the Chevalier John Paul Jones to the rank of Rear Admiral" in place of the clause "have bestowed upon the Chevalier John Paul Jones this medal."

*Ordered* That the Sec<sup>y</sup> for foreign Affairs prepare a letter for the above purpose to be signed by the president; And that the Chevalier J. P. Jones be the bearer of the said letter.

<sup>1</sup>Draught<sup>2</sup> of a Commission and letter of credence for M<sup>r</sup> Jefferson made out for him in consequence of the Act of Congress of the 12 Oct. reappointing him Minister plenipotentiary at the court of France.

#### Commission

The United States of America in Congress Assembled to our trusty and well beloved Thomas Jefferson esq<sup>r</sup> send Greet<sup>s</sup>

We reposing especial trust and confidence in your integrity prudence and ability have nominated constituted and appointed and by these presents do nominate constitute and appoint you the said Thomas Jefferson our Minister plenipotentiary to reside at the court of his Most Christian Majesty and do give you full power and authority there to represent us and to do and perform all such matters and things as to the said place or Office doth appertain or as may by our instructions be given unto you in Charge. This commission to commence and take effect from and after the tenth day of March next and continue in force for the space of three years thence ensuing unless sooner revoked. In testimony whereof we have caused the Seal of the United States to be hereunto affixed. Witness his Excellency Arthur S<sup>t</sup> Clair our president this twelfth day of October One thousand seven hundred and eighty seven and of our Sovereignty and independence the twelfth.

<sup>1</sup> From this point to the end of the day the *Journal* entries were made by Charles Thomson in the *Secret Journal, Foreign Affairs, Papers of the Continental Congress*, No. 5, III, pp. 1675-1677.

<sup>2</sup> *Papers of the Continental Congress*, No. 81, III, pp. 17-19. It is indorsed "Agreed to 19 Oct, (s) Chas. Thomson Sec<sup>y</sup>". This date is evidently an error, as no business was transacted on October 19.

## The letter of Credence.

## GREAT AND BELOVED FRIEND

We the United States in Congress Assembled have given to Thomas Jefferson esq<sup>r</sup> a new commission to represent us at your Majesty's court, which is to commence at the expiration of his present one; and we beseech your Majesty to give entire credit to whatever he shall deliver on our part especially when he shall assure you of the sincerity of our friendship.

We pray God to keep your Majesty under his holy protection. Done at the city of New York the 12<sup>th</sup> day of Oct in the year of our Lord 1787 and of our sovereignty and independence the twelfth.

The Secretary for foreign Affairs reports that agreeably to the Order of the 16 he hath prepared the following letter <sup>1</sup> to his Most Christian Majesty which having been duly signed and countersigned was delivered to the chev<sup>r</sup> J. P. Jones.

## GREAT AND BELOVED FRIEND

We the United States in Congress Assembled in consideration of the distinguished marks of approbation with which your Majesty has been pleased to honor the chevalier J Paul Jones as well as from a sense of his merit have unanimously directed a medal of gold to be struck and presented to him in commemoration of his valour and brilliant services while commanding a squadron of french and American ships under our flag and commission off the coast of Great Britain in the late war.

As it is his earnest desire to acquire greater knowledge in his profession we cannot forbear requesting the favour of your Majesty to permit him to embark with your

<sup>1</sup> The draft of this letter is in *Papers of the Continental Congress*, No. 81, III p. 21.

fleets of evolution where only it will be probably in his power to acquire that degree of knowledge which may hereafter render him more extensively useful.

Permit us to repeat to your Majesty our sincere assurances that the various and important benefits for which we are indebted to your friendship will never cease to interest us in whatever may concern the happiness of your Majesty, your family and people.

We pray God to keep you, our Great and beloved friend, under his holy protection.

Done at the city of New York the 16 day of Oct<sup>r</sup> in the year of our Lord 1787 and of our Sovereignty and independence the twelfth.

[Motion of Mr. Grayson <sup>1</sup>]

Motion of M<sup>r</sup> Grayson recommendation to N C and Georgia to cede claims of W territory.

[Letters of Secretary for Foreign Affairs transmitting correspondence]

OFFICE FOR FOREIGN AFFAIRS

15<sup>th</sup> Octo<sup>r</sup> 1787 <sup>2</sup>

SIR: I have the Honor to transmit to your Excellency herewith enclosed, a Letter from M<sup>r</sup> Jefferson of 15<sup>th</sup> August last, and am with great Respect, etc.,

JOHN JAY.

His Excellency

THE PRESIDENT OF CONGRESS.

<sup>1</sup> Notation of this motion was made by Thomson only in the *Committee Book, Papers of the Continental Congress*, No. 190, p. 173. It was referred to a committee consisting of Mr. William Grayson, Mr. Abraham Clark and Mr. David Ross, which reported October 20, 1787.

<sup>2</sup> *Papers of the Continental Congress*, No. 80, III, p. 337, read October 16, 1787. According to the *Despatch Book, Papers of the Continental Congress*, No. 185, IV, p. 20, Jefferson's letter dealt with "enregistering stamp and land tax."

## OFFICE FOR FOREIGN AFFAIRS

15<sup>h</sup> Octo: 1787<sup>1</sup>

SIR: I have the Honor of transmitting to your Excellency, herewith enclosed, a Letter<sup>2</sup> from Mess<sup>rs</sup> Willinks and Van Staphorst of 30<sup>th</sup> June last, together with the Papers mentioned in them, and am with great Respect, etc.,

JOHN JAY.

His Excellency

THE PRESIDENT OF CONGRESS.

WEDNESDAY, OCTOBER 17, 1787.

Congress assembled. Present New York New Jersey Pennsylvania, Delaware, Virginia North Carolina and South Carolina and from New hampshire M<sup>r</sup> [Nicholas] Gilman from Massachusetts M<sup>r</sup> [Nathan] Dane from Maryland [M<sup>r</sup> David] Ross and from Georgia M<sup>r</sup> [William] Few.

On Motion<sup>3</sup> of M<sup>r</sup> [William] Irvine seconded by M<sup>r</sup> [Edward] Carrington

*Resolved* That the board of treasury be and they are hereby authorised and directed to dispose of<sup>4</sup> for specie or public securities such of the public buildings at Carlisle in Pennsylvania as in the opinion of the Secretary at War are no longer necessary to be occupied by the United States,<sup>5</sup> on the best terms that can be obtained.<sup>6</sup>

<sup>1</sup> *Papers of the Continental Congress*, No. 80, III, p. 341, read October 16, 1787.

<sup>2</sup> *Papers of the Continental Congress*, No. 145, p. 233. It related to "240,000 guilders on new loan of 1 million."

<sup>3</sup> *Papers of the Continental Congress*, No. 20, II, p. 185, in the writing of Mr. William Irvine. See the report of committee on this subject, July 23, 1787, which was filed with postponed reports. See also July 19 and 20, 1787.

<sup>4</sup> The clause "for specie or public securities", was added to the original motion.

<sup>5</sup> The original motion from this point to the end read as follows, "either by public or private sale as in the judgement of the board may be most advantageous."

<sup>6</sup> OCTOBER 17, 1787. According to indorsement was read a petition of George Peek, June 16, 1787, regarding reimbursement for a mill burnt by order of General McDougall during the late war, *Papers of the Continental Congress*, No. 42, VI, pp. 385-387. An accompanying certificate is on pp. 389-390. The question was taken to commit to the Board of Treasury.

## THURSDAY, OCTOBER 18, 1787.

Six states only attending namely New Jersey Pennsylvania Delaware Virginia, North Carolina and South Carolina and from New hampshire M<sup>r</sup> [Nicholas] Gilman from Rhode island M<sup>r</sup> [James Mitchel] Varnum, from New York M<sup>r</sup> [John] Haring, from Maryland M<sup>r</sup> [David] Ross and from Georgia M<sup>r</sup> [William] Few the President adjourned Congress till tomorrow eleven O Clock.

## FRIDAY, OCTOBER 19, 1787.

Six states only attending as yesterday the president adjourned the Congress till 11 o clock to morrow.

## SATURDAY, OCTOBER 20, 1787.

Congress Assembled Present New York New Jersey Pennsylvania, Delaware Virginia North Carolina and South Carolina and from New Hampshire M<sup>r</sup> [Nicholas] Gilman from Massachusetts M<sup>r</sup> [Nathan] Dane, from Rhode island M<sup>r</sup> [James Mitchel] Varnum and from Georgia M<sup>r</sup> [William] Few.

On the report<sup>1</sup> of a committee consisting of M<sup>r</sup> [William] Grayson M<sup>r</sup> [Abraham] Clarke and M<sup>r</sup> [David] Ross to whom was referred a Motion<sup>2</sup> for a representation to the states of North Carolina and Georgia on the subject of surrendering a liberal portion of their territorial claims

*Resolved* That it be and it is hereby represented to the states of North Carolina and Georgia that the lands which have been ceded by the other states in compliance with the recommendation of this body are now ~~settling~~ selling in large quantities for public securities, that the deeds of cession from the different states have been made without annexing an express

<sup>1</sup> *Papers of the Continental Congress*, No. 30, p. 623, in the writing of Roger Alden. Read and passed October 20, 1787.

<sup>2</sup> See October 16, 1787.

condition that they should not operate until the other states under like circumstances made similar cessions, and that Congress have such faith in the justice and magnanimity of the States of North Carolina and Georgia that they only think it necessary to call their attention to these circumstances not doubting but upon consideration of the subject they will feel those obligations which will induce similar cessions and justify that confidence which has been placed in them.

On a report<sup>1</sup> of the Secretary of the United States for the department of foreign Affairs to whom was referred a letter<sup>2</sup> of the second of this present month October from P. Bond esq<sup>r</sup> enclosing a commission from his Britannic majesty constituting George Miller esquire his Consul and deputy commissary in the states of North Carolina South Carolina and Georgia.

Whereas George Miller esquire has communicated to the United States in Congress assembled a Commission in due form bearing date the 5<sup>th</sup> day of January 1787 from his Britannic Majesty constituting him the Consul of his said Majesty in the states of North Carolina South Carolina and Georgia And although no commercial treaty or convention subsists between his Majesty and the United States whereby either have a perfect right to establish consuls or commissaries in the dominions of the other yet as the United States are

<sup>1</sup> *Papers of the Continental Congress*, No. 81, III, pp. 31-33, delivered and passed October 20, 1787. The first and last paragraphs of the original report, which were omitted on adoption, are as follows:

“That for the Reasons specified in his Report of 28<sup>th</sup> March last on the Case of Phineas Bond Esquire, he thinks that it would be best to admit Mr Miller as a Consul, but not as Deputy Commissary, and therefore that a Resolution like the following would be proper, Viz<sup>t</sup>.”

“As the Reasons which induced Congress to decline admitting M<sup>r</sup> Bond in the Character of Commissary, apply to all similar Cases, and have been sent to the Honorable M<sup>r</sup> Adams to be communicated to his britannic Majesty, your Secretary thinks it would be unnecessary to repeat them on this Occasion.”

<sup>2</sup> See October 5, 1787.

disposed by every proper mark of liberality and attention to promote a good correspondence between the two countries and particularly as amicable Negotiations are now depending between them therefore

*Resolved* That the said George Miller be and he is hereby received and recognized as the Consul of his britannic Majesty throughout the states of North Carolina, South Carolina and Georgia and that his Commission be recorded in the Secretary's Office.

*Resolved* That all the privileges, pre-eminences and authority which the laws of Nations and of the land give a consul received by the United States from any Nation with whom they have no commercial treaty or convention are due and shall be enjoyed by the said George Miller as consul for the three states abovementioned and that certified copies of these resolutions be transmitted to the executives thereof for their information.

On Motion of M<sup>r</sup> [John] Kean seconded by M<sup>r</sup> H[enry] Lee

*Ordered* That the Sec<sup>y</sup> of Congress report the form of a commission<sup>1</sup> for the governor, the secretary and the judges of the Western territory.

On motion<sup>2</sup> of M<sup>r</sup> [Edward] Carrington seconded by M<sup>r</sup> [William] Irvine

*Resolved* That the postmaster gen<sup>l</sup> be and he is hereby authorised and instructed to alter the present rates of postage so as to reduce them as nearly twenty five per centum as will consist with the present mode of calculating pennyweights and grains of silver in order to reduce them to the currencies of the several states and that he make the necessary arrange-

<sup>1</sup> See October 23, 1787.

<sup>2</sup> *Papers of the Continental Congress*, No. 61, p. 411, in the writing of Mr. Eben Hazard. See March 15, 1787.



ments so that that new rates may take place on the fifth day of ~~february~~ April next.

And whereas large packets would frequently be sent by post if a proportionably less rate of postage were charged for them than for letters

*Resolved* That the postmaster gen<sup>l</sup> be and he hereby is authorized to fix such rates per pound weight for the carriage of such packets as he may judge will be most likely to induce persons to send such by post.<sup>1</sup>

MONDAY, OCTOBER 22, 1787.

Congress assembled present as before.

On the report<sup>2</sup> of a com<sup>es</sup> consisting of M<sup>r</sup> [Edward] Carrington M<sup>r</sup> [Rufus] King M<sup>r</sup> [Nathan] Dane M<sup>r</sup> [James] Madison and M<sup>r</sup> [Joseph Platt] Cook to whom was referred a letter<sup>3</sup> of the Secretary at War of the 26 of April last,

*Resolved*<sup>4</sup> That a million of Acres of land to be bounded east by the seventh range of townships, south by the land contracted for by Cutler and Sargent and to extend north as far as the ranges of townships and westward so far as to include the above quantity, also a tract to be bounded as follows beginning at the mouth of the river Ohio thence up the Mississippi to the river Au Vause, thence up the same

<sup>1</sup> OCTOBER 20, 1787. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 173, there was read and referred to the Board of Treasury to report:

The proposals of Royal Flint and Joseph Parker, for themselves and associates, October 18, 1787, for a contract for purchase of land in the Western territory. *Papers of the Continental Congress*, No. 78, IX, pp. 579-580. A covering letter of Flint to President of Congress, also read, is on p. 575. The proposals were also copied by John Fisher in the *Committee Book*, pp. 174-175. Report of the Board of Treasury rendered October 22, 1787.

<sup>2</sup> See October 12, 1787.

<sup>3</sup> See April 26, 1787.

<sup>4</sup> Suggestions regarding the boundaries for the tract of land, which were fixed in this resolve, are found in a letter of H. Knox to Edward Carrington, October 22, 1787. *Papers of the Continental Congress*, No. 150, II, p. 323.

until it meets a west line from the mouth of the little Wabash thence easterly with the said West line to the Great Wabash, thence down the same to the Ohio and thence with the Ohio to the place of beginning, be reserved and set apart for the pur-

*Resolved* That the Secretary at War take measures for ascertaining the existing claims

pose of satisfying the military bounties due to the late Army and that no locations other than for the said bounties be permitted within the said tract until they shall be fully satisfied.

That the Secretary at War take measures for ascertaining the existing claims for such bounties and that the Geographer proceed to have the same surveyed under the direction of the Secretary at War agreeably to the terms upon which they have been promised.

On motion <sup>1</sup> of M<sup>r</sup> H[enry] Lee seconded by M<sup>r</sup> [William] Irvine

*Resolved* That the governor of the western territory be and he is hereby empowered to hold a general treaty with the adjacent Indian tribes in the ensuing Spring, if in his judgment the public good requires it and that he be authorised to draw for such sums of the money appropriated by the resolve of Congress of the 12<sup>th</sup> instant as may be necessary to effect this object,<sup>2</sup> not exceeding in the whole the sum of fourteen thousand dollars.

<sup>1</sup> *Papers of the Continental Congress*, No. 30, p. 132, in the writing of Mr. Henry Lee. This proceeding was also entered by John Fisher in *Western Territory, Papers of the Continental Congress*, No. 176, p. 16. This motion superseded the committee report on the subject. See August 9 and October 12, 1787.

<sup>2</sup> The clause from this point to the end of the resolve was not in the original motion. It was added by Charles Thomson and is apparently an amendment.

[Report of Board of Treasury on proposals of R. Flint and J. Parker <sup>1</sup>]

## BOARD OF TREASURY

Oct. 22<sup>d</sup> 1787.

The Board of Treasury to whom was referrd the Proposal of Royal Flint, and Joseph Parker, relative to the Purchase of Certain Tracts of the Western Territory,

Beg Leave to Report,

That the said Proposal is founded on the same Principles as have been agreed to by Congress on the Contracts of Mess<sup>rs</sup> Cutler, and Sargent, and M<sup>r</sup> John C. Symmes, with these Exceptions Viz<sup>t</sup>.

That the Proposers offer on their Part, and on their own Advance (to be hereafter Compensated) to Extinguish the Indian Claim to the Tracts; which they propose to Purchase, and

That the Proportionate Installments on the respective Tracts should only be paid at Nine Months after the Notification of the said Indian Purchase being Completed.

On the Matter in Reference, The Board are of Opinion, that if Congress should agree to the Sale of the Tracts described in the Memorial; That it would be proper that the United States should Extinguish the Indian Claims to the said described Tracts; should any Exist;

That it would be further Proper, that the first Proportionate Payments, on the Respective Tracts should be made whenever the several Contracts for the same should be completed; as in the Case of other Contracts; and that "Nothing in the said Grants should Affect any

<sup>1</sup> *Papers of the Continental Congress*, No. 138, I, pp. 501-502, read October 22, 1787. The resolution to agree to the report is indorsed on the report by Charles Thomson. The report was also entered by John Fisher in the *Committee Book*, *Papers of the Continental Congress*, No. 190, pp. 175-176.

Claims of Individuals which have been secured to them by the Act of Cession of the State of Virginia; or any Act of Congress."

All which is humbly Submitted

SAMUEL OSGOOD  
WALTER LIVINGSTON  
ARTHUR LEE<sup>1</sup>

*Resolved*<sup>2</sup> That Congress agree to the above report, and that it, together with the proposal of Royal Flint and Joseph Parker, be referred back to the Board of Treasury to take order.

TUESDAY, OCTOBER 23, 1787.

Congress assembled present as before.

On motion<sup>3</sup> of M<sup>r</sup> [Nathan] Dane seconded by M<sup>r</sup> H[enry] Lee

*Resolved* That the board of treasury be directed to defend the suit of Colbreath and others against A Lee and others late commissioners for treating with the Indian Nations.

On the report<sup>4</sup> of a committee consisting of M<sup>r</sup> [John] Kean M<sup>r</sup> [Abraham] Clarke and M<sup>r</sup> [William] Grayson to whom were referred draughts of Commissions for the Governor the Secretary and the Judges of the territory of the United States North West of the river Ohio

*Resolved* That the following forms be adopted

<sup>1</sup> OCTOBER 22, 1787. According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 173, the following committee was appointed:

Mr. John Kean, Mr. Abraham Clark and Mr. William Grayson on drafts of commissions for the governor, judges and secretary of the Western territory. Report rendered October 23, 1787. See October 20, 1787.

According to indorsement was read a petition of Enoch Morgan, October 22, 1787, praying for settlement of his account for which the vouchers were lost. *Papers of the Continental Congress*, No. 42, V, p. 413. A statement of his account is on p. 415.

<sup>2</sup> *Committee Book, Papers of the Continental Congress*, No. 190, p. 176.

<sup>3</sup> *Papers of the Continental Congress*, No. 19, III, p. 513½, in the writing of Mr. Nathan Dane. See September 24 and 25, 1787.

<sup>4</sup> *Papers of the Continental Congress*, No. 30, pp. 135-141, in the writing of Mr. John Kean. Read October 23, 1787. These proceedings were entered by John Fisher in *Western Territory Papers of the Continental Congress*, No. 176, pp. 17-20.

For the Governor

The United States in Congress Assembled to A. S. Esq<sup>r</sup>

We reposing special trust and confidence in your integrity prudence and ability have constituted and appointed and by these presents do constitute and appoint you the said A. S. Governor in and over the territory of the United States of America north west of the river Ohio and commander in chief of the militia therein, to order rule and govern the same conformably to the Ordinance of the 13 July 1787 entitled "An Ordinance for the government of the territory of the United States north west of the river Ohio" which is hereto affixed And we do hereby give and grant to you the said A S all the powers authorities and prerogatives assigned to the governor of the said territory in and by the said Ordinance. And we do strictly enjoin all persons to pay due Obedience to this our commission. This commission to take effect from the first day of february 1788 and to continue in force for the term of three years thereafter unless sooner revoked by Congress. In testimony &c.

For the Secretary

The United States in Congress Assembled to W. S esq<sup>r</sup>

We reposing special trust and confidence in your fidelity diligence and integrity have constituted and appointed and by these presents do constitute and appoint you the said W S Secretary in and for the territory of the United States north west of the river Ohio to execute and perform all the duties directed by the Ordinance of the 13<sup>th</sup> July 1787 entitled "an Ordinance for the government of the territory of the United States north west of the river Ohio which is hereto annexed, giving to you the said W S all the powers and authorities assigned to the Secretary of the said territory in and by the Ordinance Aforesaid, and we do enjoin all persons to pay due Obedience to this our commission. This Com-

mission to take effect from the first day of febr'y 1788 and to continue in force for the term of four years thereafter unless sooner revoked by Congress. In Testimony &c.

For the Judges <sup>1</sup>

The United States in Congress Assembled to—

We reposing special trust and confidence in your wisdom Uprightness and integrity have constituted and appointed and by these presents do constitute and appoint you the said

One of the Judges in and over the territory of the United States north west of the river Ohio with full power and authority in conjunction with one or more of the judges of the said territory to form a court with all the powers and authorities incident to a court having a common law jurisdiction and to exercise all such powers and perform and execute all the duties directed by the Ordinance of the 13 July 1787 entituled An Ordinance for the government of the territory of the United States north west of the river Ohio which is hereto affixed, giving to you the said all the powers and authorities assigned to a judge of the said territory in and by the Ordinance aforesaid and we do enjoin all persons to pay due Obedience to this our commission. This commission to continue and be in force during good behaviour or during the existence of the government established by the Ordinance aforesaid, you residing within the said territory. In Testimony &c.

<sup>1</sup>The original commission on parchment of John Armstrong, jr., one of the judges, dated October 23, 1787, is in *Papers of the Continental Congress*, No. 59, I, p. 233.

On motion<sup>1</sup> of Mr [John] Kean seconded by Mr [Henry] Lee  
*Resolved* That the board of treasury be and they are hereby authorised and empowered to enter into contracts in behalf of the United States with any person or persons for any quantity of land in the Western territory, the Indian rights whereon have been extinguished, not less than one Million of Acres in One body upon the same terms as it respects price, payment and surveying with those directed in the contract with M Cutler and W Sargent on the 23 and 27<sup>th</sup> of July last<sup>2</sup> provided that no tract contracted for shall have a front on the Ohio, Mississippi, Wabash or Illinois rivers exceeding one third of its depth from the said rivers And provided that no gift of land be made for seminaries of learning or other purpose than those contained in the Ordinance<sup>3</sup> of the 20<sup>th</sup> May 1785 except the quantity contained in any one contract shall contain a quantity greater or equal to the aforementioned contract of Cutler and Sargent, and that the said contract shall be in<sup>4</sup> a state as described by the fifth Article of the Ordinance for the government of the territory of the United States Northwest of the river Ohio passed the 13 of July 1787, other than that wherein the contract of the said Cutler and Sargent is.

<sup>1</sup> *Papers of the Continental Congress*, No. 30, pp. 133-134, in the writing of Mr. John Kean. On the back of this motion are what appear to be two proposed amendments, as follows: (a) "provided that each tract shall extend from the Ohio to the continuation East and West line as run by the Geographer" and (b) "provided that no gift of land be made for seminaries of learning except in proportion to the grant of Sag<sup>t</sup> and Cr<sup>t</sup>"

<sup>2</sup> In the original motion the clause "provided . . . . said rivers" read as follows, "Provided that no tract contracted for shall have a front on any navigable water exceeding one half its length from the said navigable water."

<sup>3</sup> *Journals*, vol. XXVIII, pp. 375-381.

<sup>4</sup> From this point to the end of the resolve the original motion reads as follows, "a district as described by the resolve of the 13<sup>th</sup> day of July 1787 other than that wherein the contract of the s<sup>d</sup> Cutler and Sargent is".

When the foregoing resolution was under debate a Motion<sup>1</sup> was made by M<sup>r</sup> [William] Grayson seconded by M<sup>r</sup> [Lambert] Cadwallader to postpone the Consideration thereof in order to take up the following viz "That the board of treasury be authorised to enter into contracts with any person or persons for any quantity of land in the Western territory the indian titles whereof have been extinguished not less than one million of Acres on similar terms and principles with those of the contracts heretofore entered into, provided that no tract of land thus contracted for shall have a front on the Ohio Miami, Wabash or Mississippi exceeding one third of its depth from the said rivers respectively".

And on the question to postpone for the purpose above mentioned the yeas and Nays being required by M<sup>r</sup> [William] Grayson

<i>New Hampshire</i>			<i>Delaware</i>	
M <sup>r</sup> Gilman	ay *		M <sup>r</sup> Kearny	no } <sup>d</sup>
<i>Massachusetts</i>			M <sup>r</sup> Mitchell	ay } <sup>d</sup>
M <sup>r</sup> Dane	ay *		<i>Virginia</i>	
<i>Rhode island</i>			M <sup>r</sup> Grayson	ay } <sup>ay</sup>
M <sup>r</sup> Varnum	ay *		M <sup>r</sup> Madison	ay } <sup>ay</sup>
<i>New York</i>			M <sup>r</sup> R H Lee	ay } <sup>ay</sup>
M <sup>r</sup> Haring	no } <sup>no</sup>		M <sup>r</sup> Carrington	ay } <sup>ay</sup>
M <sup>r</sup> Smith	no } <sup>no</sup>		<i>North Carolina</i>	
<i>New Jersey</i>			M <sup>r</sup> Ashe	ay } <sup>ay</sup>
M <sup>r</sup> Cadwallader	ay } <sup>d</sup>		M <sup>r</sup> Burton	ay } <sup>ay</sup>
M <sup>r</sup> Clarke	no } <sup>d</sup>		<i>So[uth] Carolina</i>	
<i>Pensylvania</i>			M <sup>r</sup> Kean	no } <sup>div<sup>d</sup></sup>
M <sup>r</sup> S <sup>t</sup> Clair	no } <sup>no</sup>		M <sup>r</sup> Huger	ay } <sup>div<sup>d</sup></sup>
M <sup>r</sup> Irvine	no } <sup>no</sup>			
M <sup>r</sup> Armstrong	no }			

So the question was lost.

<sup>1</sup> *Papers of the Continental Congress*, No. 30, p. 133½, in the writing of Mr. William Grayson.



WEDNESDAY, OCTOBER 24, 1787.

Congress assembled present as before.

[Letter of Secretary for Foreign Affairs transmitting letter of J. P. Jones <sup>1</sup>]

OFFICE FOR FOREIGN AFFAIRS

23<sup>d</sup> Octo<sup>r</sup> 1787

SIR: I have the Honor of transmitting to your Excellency, herewith enclosed, a Letter of this Date from the Chev<sup>r</sup> Jones, reclaiming the Papers which accompanied his Letter of the 18<sup>th</sup> July last, and which I understand are now before the Board of Treasury.

I have the Honor to be, etc.,

JOHN JAY.

His Excellency

THE PRESIDENT OF CONGRESS.

THURSDAY, OCTOBER 25, 1787.

Congress assembled present ~~seven states~~ as before ~~and from New hampshire~~ Mr [Nicholas] Gilman

On a report<sup>2</sup> of the board of treasury to whom was referred a memorial<sup>3</sup> of James Smith

*Resolved* That the commissioner for settling the Accounts in the late commissary's department be directed to ascertain the interest on the balance of principal by him found due to James Smith on the 24 Nov<sup>r</sup> 1784 from the time the said balance became due to the 11 Oct 1786 and to issue his certificate for the amount thereof in the usual form.

<sup>1</sup> *Papers of the Continental Congress*, No. 80, III, p. 345, read October 24, 1787. The letter of Jones is in *Papers of the Continental Congress*, No. 168, II, p. 359.

<sup>2</sup> Report of October 11, 1786, *Papers of the Continental Congress*, No. 138, II, pp. 381-383. See *Journals*, vol. XXXI, pp. 769-770. According to indorsement the committee report on this subject of October 18, 1786 (See *Journals*, vol. XXXI, p. 889) was postponed and the report of the Board of Treasury passed.

<sup>3</sup> *Papers of the Continental Congress*, No. 42, VII, pp. 263-264, dated October 5 and read October 6, 1786.

On motion of M<sup>r</sup> [Melancton] Smith in behalf of The com<sup>es</sup> to whom was referred a memorial<sup>1</sup> of Baron Steuben having informed Congress that on examining the letters of M<sup>r</sup> President Laurens they find one dated 19 febr<sup>y</sup> 1778 to gen<sup>l</sup> Washington by Baron Steuben in which is the following paragraph "Upon the arrival of this illustrious stranger at Yorktown Congress ordered a committee consisting of M<sup>r</sup> Witherspoon M<sup>r</sup> M<sup>c</sup>Kean M<sup>r</sup> F. L. Lee and M<sup>r</sup> Henry to wait upon and confer with him to pay the necessary compliments on his appearance in America and to learn explicitly his expectations from Congress and the committee were directed to deliver me the substance of their conference in writing for your excellency's information. All that I have received or know on this head will be seen in an enclosed paper marked "committee's conference with baron Steuben" to which I beg leave to refer your Excellency" that the paper herein referred to would in their opinion throw light on the subject referred to them; whereupon

*Ordered* That the Secretary of Congress write to Gen<sup>l</sup> Washington<sup>2</sup> for a copy of the paper enclosed in M<sup>r</sup> President Laurens' letter of 19 febr<sup>y</sup> 1778 marked "Committee's conference with Baron Steuben.

Application<sup>3</sup> being made by J M Pintard praying that Sea letters be granted respectively for the ship General Washington burden 350 tons now fitting out at Providence in the state of Rhode island and owned by Mess<sup>rs</sup> Brown Francis and Pintard; and for the ship Jay now fitting out in the port

<sup>1</sup> See October 6, 1787. See also January 22, February 1, and July 25, 1788.

<sup>2</sup> Washington's reply to the request of this motion is in *Papers of the Continental Congress*, No. 19, V, pp. 581-582. See January 22, 1788.

<sup>3</sup> The application was transmitted to Congress in a letter of John Jay to President of Congress, October 25, 1787. *Papers of the Continental Congress*, No. 80, III, p. 349. Two certificates of Pintard are on pp. 353-354. According to indorsement and the *Committee Book*, *Papers of the Continental Congress*, No. 190, p. 177, the application was referred to a committee consisting of Mr. Dyre Kearny, Mr. John Kean and Mr. James Madison, which reported on October 25, 1787. The letters were transmitted to the Office for Foreign Affairs on October 26, 1787.

of New York owned by citizens of the United States and bound for India.

On motion of M<sup>r</sup> [Melancton] Smith seconded by M<sup>r</sup> [Abraham] Clarke

*Resolved* That Sea letters in the usual form be granted for the said vessels.

<sup>1</sup> On Motion of M<sup>r</sup> H[enry] Lee seconded by M<sup>r</sup> [Edward] Carrington

*Resolved*<sup>2</sup> That the Minister of the United States at the Court of Versailles be and he hereby is authorised and instructed to represent to his Danish Majesty that the United States continue to be very sensibly affected by the circumstance of his Majesty's having caused a number of their prizes to be delivered to Great Britain during the late War and the more so as no part of their conduct had forfeited their claim to those rights of hospitality which civilized Nations extend to each other. That not only a sense of the justice due to the Individuals interested in those prizes but also an earnest desire that no subject of discontent may check the cultivation and progress of that friendship which they wish may subsist and encrease between the two Countries, prompt the United States to remind his Majesty of the transaction in question and they flatter themselves that his Majesty will concur with them in thinking that as restitution of the prizes is not practicable, it is reasonable and just that he should render and that they should accept a compensation equivalent to the value of them.

<sup>1</sup> From this point to the end of the day the *Journal* entries were made by Benjamin Bankson and attested by Charles Thomson in the *Secret Journal Foreign, Papers of the Continental Congress*, No. 6, III, pp. 414-415. They were also entered by Thomson in the *Secret Journal, Foreign Affairs, Papers of the Continental Congress*, No. 5, III, pp. 1672-1673.

<sup>2</sup> On the subject of the recovery of prize money from Denmark, see September 29, October 8 and 9, 1787.

That the said Minister be further authorised and instructed finally to settle and conclude the demands of the United States against his Danish Majesty on account of the prizes aforesaid by such composition and on such terms as may be the best in his power to obtain and that he be directed to retain in his hands all the Money so recovered till the further Order of Congress.

That the said Minister be and he is hereby authorized in case he shall think it proper, to dispatch the Chevalier J. P. Jones or any other Agent to the Court of Denmark with such powers and Instructions relative to the above-mentioned Negotiation as in his judgment may be most conducive to the successful issue thereof; provided that the ultimate conclusion of the business be not made by the Agent without the previous approbation of the said Minister.

That the person employed shall, for his Agency in the business aforesaid, be allowed five per Cent for all expences and demands whatever on that account.

*Ordered* That The Board of Treasury transmit to the Minister of the United States at the Court of Versailles all the necessary documents relative to the prizes delivered up by Denmark.

CHA<sup>s</sup> THOMSON, *Sec<sup>y</sup>*

[Motion of Mr. Lee on Indian treaties <sup>1</sup>]

Whereas the frontiers of the states of N C and G are ~~subject~~ exposed to ~~annual unceasing~~ the hostility from the neighboring indians, and whereas Congress are bound to bestow its protection ~~on~~ to every part of this Union and have by resolve applied 14000 dollars for

<sup>1</sup> *Papers of the Continental Congress*, No. 36, III, p. 391, in the writing of Mr. Henry Lee. According to indorsement and the *Committee Book, Papers of the Continental Congress*, No. 190, p. 177, this motion was referred to a committee consisting of Mr. John Kean, Mr. Abraham Clark and Mr. William Grayson, which should also draw instructions for holding treaties with the Indians of the Northern and Southern departments. Report rendered October 26, 1787.

the purpose of negotiating a general peace with the s<sup>d</sup> Indians, Resolved that the ballance of the money appropriated by resolve for the two commissioners be appointed who in conjunction with the Superin<sup>d</sup> of Southern of indian affairs for the Sou: depart<sup>nt</sup> are hereby authorized to negotiate a treaty with the southern indian tribes, and that the sum of six thousand dollars, ballance of the money appropriated by resolve be subject to the order of the said Com. and Super<sup>t</sup>

FRIDAY, OCTOBER 26, 1787.

Congress assembled present the seven states as before and from New hampshire M<sup>r</sup> [Nicholas] Gilman and from Massachusetts M<sup>r</sup> [Nathan] Dane.

On a report <sup>1</sup> of the board of treasury to whom was referred a memorial <sup>2</sup> of Silvanus Townsend Amos Underhill and John Butler

*Resolved* That the commissioner for settling the acco<sup>ts</sup> of the commissary general's department be authorised and directed to liquidate the claim of Silvanus Townsend Amos Underhill and John Butler against the United States for a quantity of flour by them sold and delivered to Daniel Gray late a purchasing commissary in the service of the United States in the year 1776, the claimants attesting to the same in the manner in such cases usual and to issue his certificate for the same, And that the amount of the sum so liquidated be charged to the said Daniel Gray.

On the report <sup>3</sup> of a com<sup>ee</sup> consisting of M<sup>r</sup> [John] Kean M<sup>r</sup> [Abraham] Clarke and M<sup>r</sup> [William] Grayson to whom was

<sup>1</sup> See July 17, 1787.

<sup>2</sup> See April 18, 1787.

<sup>3</sup> *Papers of the Continental Congress*, No. 30, pp. 323-328, in the writing of Benjamin Bankson. The report begins with the resolves regarding the treaty with the Southern Indians and then follows the instructions to the Southern commissioners, the instructions to the governor of the Northwest territory and finally the resolve regarding the treaty with the Northern Indians. The instructions were entered in *Secret Journal*, see below.

referred a motion <sup>1</sup> of Mr H[enry] Lee with directions to report instructions for holding treaties with the northern and southern Indians

*Resolved* <sup>2</sup> That the executive or legislature if they be in session, in the states of North Carolina South Carolina and Georgia be and they are hereby authorised to appoint each of them one commissioner; who shall ~~each be allowed five dollars per day for the time they shall be employed in that business~~ in conjunction with the Superintendent of Indian Affairs for the Southern department or in his absence by themselves negotiate a treaty for the establishing peace between the United States and the tribes of Indians in the Southern department; and any two <sup>3</sup> of the commissioners to be appointed as aforesaid in conjunction with the Superintendent or in case of the absence of the Superintendent any two of the said commissioners agreeing their decision shall be final and conclusive; And that the said commissioners shall each be allowed five dollars a day for the time they shall be employed in that business in full for their services and expences exclusive of their expences at the place or places where the treaties shall be held.

*Resolved* That the sum of six thousand dollars being a part of the Sum appropriated by the resolution of the twelfth of the present Month for holding Indian treaties in addition to the goods in the hands of the former commissioners for holding a treaty with the southern Indians be applied to holding the said treaty at such time and at such places as shall be appointed by the Superintendent of Indian Affairs for the

<sup>1</sup> See October 25, 1787.

<sup>2</sup> *Papers of the Continental Congress*, No. 30, p. 325. The portions underlined by the editor, are additions to the original report.

<sup>3</sup> "Three" in the original. This change and the addition of the clause "in conjunction . . . . said commissioners", were made on a motion, which, in the writing of Mr. Abraham Clark, is in *Papers of the Continental Congress*, No. 36, III, p. 383.

Southern department in conjunction with the executive of the State of North Carolina for the treaty with the Cherokees, and with the executive of Georgia for that with the Creek Nation; or in case of the absence of the Superintendent then the time and place to be appointed by the executive of each state in manner aforesaid. The aforesaid <sup>1</sup> sum to be in full for all charges of whatsoever nature they may be relative to the said treaty including the pay of the commissioners and militia; And that the states of North Carolina, South Carolina and Georgia be called on to furnish the aforesaid sum in equal proportions to be credited on requisitions of Congress.

That the commissioners aforesaid be and they hereby are authorised to apply to the States of North Carolina, South Carolina and Georgia for any number of men not exceeding one hundred of their militia for the purpose of guarding and protecting the stores and goods necessary for carrying on the said treaty.

<sup>2</sup> Instructions to the Commissioners for negotiating a treaty with the tribes of Indians in the Southern department for the purpose of establishing peace between the United States and the said tribes.

GENTLEMEN:

Several circumstances rendering it probable that Hostilities may have commenced, or are on the Eve of commencing between the State of North Carolina and the Cherokee Nation of Indians, and between the State of Georgia and the Creek Nation of Indians. You are to use every endeavor to restore peace and harmony between the said States and the said Nations on terms of Justice and humanity.

<sup>1</sup> "Aforementioned" in the original report.

<sup>2</sup> From this point to the end of the proceedings on Indian Affairs, the *Journal* entries were made by John Fisher, with some additions by Charles Thomson, in the *Secret Domestic Journal, Papers of the Continental Congress*, No. 3, pp. 233-237. The entries from the *Secret Journal* are placed within those of the *Public Journal* to preserve what was apparently the order of business.

The great source of Contention between the said States and the Indian tribes being boundaries, you will carefully enquire into, and ascertain the boundaries claimed by the respective States, and altho' Congress are of Opinion that they might Constitutionally fix the bounds between any State and an Independent Tribe of Indians, yet unwilling to have a difference subsist between the general government and that of the Individual States, they wish you so to conduct the matter, that the States may not conceive their Legislative rights in any manner infringed, taking care at the same time that whatever bounds are agreed upon they may be described in such terms as shall not be liable to misconstruction and misrepresentation, but may be made clear to the Conceptions of the Indians as well as whites.<sup>1</sup>

The present Treaty having for its principal object the restoration of peace, no Cession of land is to be demanded of the Indian Tribes.

You will use the utmost care to ascertain who are the leading men among the several Tribes, the real head men and Warriors, these you will spare no pains to attach to the interest of the United States, by removing as far as may be all causes of future Contention or

<sup>1</sup> At this point the following paragraph was struck out from the original report, "The management of the Indian trade is a source of uneasiness between the States and the general government, it is one of the many ill consequences that arise from the States not giving up their claim to unappropriated lands which has been so often recommended to them, but we trust when they consider with temper the weighty reasons that are in favour of their relinquishing their claims and the good temper which will be restored to those States who have made cessions, (and which are now selling for the common benefit) and who have acceded to this measure of restoring them tranquility, we shall not long complain of their want of liberality, for these reasons you will be careful not to irritate the States nor to sacrifice the rights of the Union, taking care at the same time to ~~bound~~ [confine] the Indian trade to citizens of the United States as much as the nature of the case will admit."



quarrels, by kind treatment and assurances of protection, by presents of a permanent Nature, and by using every endeavor to conciliate the Affections of the white people inhabiting the frontiers towards them.

You will encourage the Indians to give Notice to the Superintendant of Indian Affairs of any designs that may be formed by any Neighboring Indian tribe, or by any person whatever, against the peace of the United States.

You will insist that all prisoners of whatever age, sex, or Complexion be delivered up, and that all fugitive Slaves belonging to Citizens of the United States be restored.

Instructions<sup>1</sup> to the Governor of the Territory of the United States, North West of the River Ohio, relative to an Indian Treaty in the Northern department.

SIR: You are carefully to examine into the real Temper of the Indian tribes inhabiting the Northern Indian department of the United States, if you find it hostile, and that the welfare of the frontiers, and the Settlements forming in that Country demand a Treaty, you will then<sup>2</sup> in conjunction with the Superintendant of Indian Affairs for the Northern department, unless the attendance of the s<sup>d</sup> Superint: shall be prevented by any unforeseen event hold as general a one as you can with all the Tribes.

The primary objects of the Treaty are the removing all causes of controversy, so that peace and harmony may continue between the United States and the Indian Tribes, the regulating trade and settling boundaries.

<sup>1</sup> These instructions were also entered by John Fisher, in *Western Territory, Papers of the Continental Congress*, No. 176, pp. 21-22.

<sup>2</sup> The clause "in conjunction . . . . unforeseen event" was added to the original report.

For these purposes you will do every thing that is right and proper.

The Treaties which have been made may be examined but must not be departed from, unless a change of boundary beneficial to the United States can be obtained.

Altho' the purchase of the Indian right of Soil is not a primary object of holding this Treaty, yet you will not Neglect any opportunity that may Offer of extinguishing the Indian rights to the Westward as far as the River Mississippi.

You may stipulate that the East and West line Ordered to be run by the Ordinance of the 20<sup>th</sup> May 1785 shall be the boundary between the United States and the Indian tribes; provided they stipulate that it shall run throughout unto the River Mississippi, and you may Stipulate that any white persons going over the said boundary without a Licence from the proper Officer of the United States may be treated in such manner as the Indians shall think proper.

You will use every possible endeavor to ascertain who are the real headmen and Warriors of the several Tribes, and who have the greatest influence among them, these men you will attach to the United States by every means in your power.

Every exertion must be made to defeat all Confederations and Combinations among the tribes, and to conciliate the white people inhabiting the frontiers towards them.

*Resolved*<sup>1</sup> That if under the authority given the 22<sup>d</sup> day of the present month to the governor of the territory of the

<sup>1</sup> *Papers of the Continental Congress*, No. 30, p. 328. This resolve was also entered in the *Secret Domestic Journal, Papers of the Continental Congress*, No. 3, p. 236-237, where Thomson has noted on the margin "entered on Public Journal." It is also entered by John Fisher, in *Western Territory, Papers of the Continental Congress*, No. 176, p. 20.

United States north west of the river Ohio he shall think it expedient to hold a treaty with the Indian tribes in the Northern department, he shall apply to the commanding officer of the troops of the United States for such a number of men as he may deem proper for guarding and protecting the stores and goods necessary for holding the said treaty and the commanding Officer of the troops of the United States shall cause the said number of men to be marched to such place and at such time as shall be directed by the governor.

(See Secret Journal for domestic affairs for Instructions to comm<sup>r</sup> this date.)

On motion <sup>1</sup> of M<sup>r</sup> [Nathan] Dane seconded by M<sup>r</sup> R[ichard] H[enry] Lee

*Ordered* That the Sec<sup>y</sup> of Congress inform the Chev<sup>r</sup> J. P. Jones that the business relative to the prizes taken during the late war and sent to Denmark is put under the management of the hon<sup>ble</sup> M<sup>r</sup> Jefferson Minister of the United States at the court of Versailles and that he furnish M<sup>r</sup> Jones with a copy of such part of the resolutions passed yesterday as respects the appointment of an Agent by M<sup>r</sup> Jefferson relative to the said prizes.

On motion <sup>2</sup> of M<sup>r</sup> [William] Few seconded by M<sup>r</sup> [Edward] Carrington

*Ordered* That the Secretary of the United States for the department of foreign Affairs transmit one of the copper medals struck in honor of gen<sup>l</sup> Greene to each of the said general's aids who acted during his command in the southern department.

<sup>1</sup> A motion to the same intent, but with the order of the principal points inverted, in the writing of Mr. Nathan Dane, is in *Papers of the Continental Congress*, No. 36, III, p. 387. Another similar motion, in the writing of Mr. Edward Carrington, is in *Papers of the Continental Congress*, No. 36, III, p. 393.

<sup>2</sup> This motion, with some verbal differences, in the writing of Mr. William Few, is in *Papers of the Continental Congress*, No. 36, III, p. 385.

[Letter of Secretary at War on Indian Affairs<sup>1</sup>]

WAR OFFICE October 26<sup>th</sup> 1787,

SIR: I have the honor to transmit to your Excellency copies of letters dated Carlisle on the 10<sup>th</sup> and 11<sup>th</sup> instant from the Superintendent of Indian affairs for the Northern department with enclosures which exhibit the present dispositions and conduct of some of the Indian tribes on the frontiers.

I am Sir, etc.,

H KNOX<sup>2</sup>

His Excellency

THE PRESIDENT OF CONGRESS.

SATURDAY, OCTOBER 27, 1787.

Congress assembled present as before.

On motion <sup>3</sup> of M<sup>r</sup> [Abraham] Clarke seconded by M<sup>r</sup> [Dyre] Kearny

*Resolved* That in case the governor of the western territory shall find it necessary to hold a treaty with the Indians as empowered by the resolution of the 22<sup>d</sup> instant, he conduct the same in conjunction with the Superintend<sup>t</sup> of Indian affairs for the Northern department unless the attendance of the s<sup>d</sup> Superintend<sup>t</sup> shall be prevented by any unforeseen event.

<sup>1</sup> *Papers of the Continental Congress*, No. 150, II, p. 529. read October 26, 1787. Two letters of Richard Butler and the several enclosures mentioned are on pp. 533-562.

<sup>2</sup> OCTOBER 26, 1787. According to the *Committee Book, Papers of the Continental Congress*, No. 190, p. 177, the following petitions were referred:

Petition of Captain Vincent, an Indian, for pay and land. According to the *Despatch Book, Papers of the Continental Congress*, No. 185, IV, p. 20, this petition was received October 26, 1787. Referred to the Secretary at War to report. Report rendered May 2, 1788.

Petition of John P. de Haas, October 25, 1787, read October 26, for settlement of his father's account. *Papers of the Continental Congress*, No. 42, II, p. 362. Referred to the Board of Treasury to report. Report rendered February 5, 1788.

<sup>3</sup> *Papers of the Continental Congress*, No. 36, III, p. 393, in the writing of Mr. Abraham Clark. This proceeding is also entered by John Fisher in *Western Territory, Papers of the Continental Congress*, No. 176, p. 23. See October 26, 1787.

MONDAY, OCTOBER 29, 1787.

Five states assembled, namely New York, New Jersey Pennsylvania Virginia and North Carolina and from New hampshire M<sup>r</sup> [Nicholas] Gilman and from South Carolina M<sup>r</sup> [Daniel] Huger.

<sup>1</sup> TUESDAY, OCTOBER 30, 1787.

Four States Assembled.  
the remainder of the week no house was formed.

<sup>2</sup> MONDAY, NOVEMBER 5, 1787.<sup>3</sup>

Pursuant to the Articles of Confederation and perpetual Union, the following gentlemen Attended as delegates

From New hampshire	M <sup>r</sup> [Nicholas] Gilman <sup>4</sup>
From South Carolina	M <sup>r</sup> [Daniel] Huger <sup>5</sup> and M <sup>r</sup> [John] Parker <sup>5</sup>
From Georgia	M <sup>r</sup> [William] Few <sup>6</sup> and M <sup>r</sup> [Abraham] Baldwin. <sup>4</sup>

TUESDAY, WEDNESDAY, THURSDAY, FRIDAY AND SATURDAY, [NOVEMBER 6, 7, 8, 9, 10, 1787.]

the same and from Virginia M<sup>r</sup> [Edward] Carrington <sup>7</sup>  
from North Carolina M<sup>r</sup> [James] White <sup>8</sup>

<sup>1</sup> Roger Alden makes the entry.

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

<sup>3</sup> This was the first meeting of the federal year 1787-1788.

<sup>4</sup> Credentials delivered November 5, 1787. For the credentials for the federal year 1787-1788, delivered in November and December, 1787, except as otherwise noted, see January 21, 1788.

<sup>5</sup> Credentials delivered November 12, 1787.

<sup>6</sup> For Mr. Few's credentials see May 26, 1788.

<sup>7</sup> Credentials delivered November 10, 1787. See May 5, 1788.

<sup>8</sup> Mr. White delivered the credentials of the North Carolina delegates November 10, 1787.

TUESDAY, NOVEMBER 13, 1787.

From New Jersey M<sup>r</sup> [Abraham] Clark <sup>1</sup> and M<sup>r</sup> [Jonathan] Dayton.<sup>1</sup>

MONDAY, NOVEMBER 19, 1787.

From Massachusetts M<sup>r</sup> [Samuel Allyne] Otis<sup>2</sup> and M<sup>r</sup> [George] Thatcher.<sup>2</sup>

[TUESDAY,] NOVEMBER 20, 1787.

From Virginia M<sup>r</sup> [Cyrus] Griffin <sup>3</sup> and M<sup>r</sup> [John] Brown.<sup>3</sup>

THURSDAY, NOVEMBER 22, 1787.

From Virginia M<sup>r</sup> [James] Madison <sup>4</sup>

[FRIDAY,] DECEMBER 15, 1787.

M<sup>r</sup> [Jonathan] Elmer from New Jersey attended.

[MONDAY,] DECEMBER 18, 1787.

M<sup>r</sup> [Thomas Tudor] Tucker <sup>5</sup> from South Carolina attended.

TUESDAY, DECEMBER 19, 1787.

M<sup>r</sup> [William] Irvine <sup>6</sup> and M<sup>r</sup> [James R.] Reed <sup>6</sup> from Pennsylvania attended.

<sup>1</sup> Credentials of New Jersey delegates delivered November 13, 1787.

<sup>2</sup> Credentials delivered November 19, 1787.

<sup>3</sup> Credentials delivered November 20, 1787.

<sup>4</sup> Credentials delivered November 22, 1787.

<sup>5</sup> Credentials delivered December 18, 1787.

<sup>6</sup> Credentials delivered December 19, 1787.

NOTES OF DEBATES  
IN THE CONTINENTAL CONGRESS

BY JAMES MADISON

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## NOTES OF DEBATES

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In Congress. Feb<sup>y</sup> 19. 1787

M<sup>r</sup> Pinckney in support of his motion entered on the Journal, for stopping the enlistment of Troops, argued that we had reason to suppose the insurrection in Mass<sup>ts</sup>, the real, tho' not ostensible object of this measure, to be already crushed:—that the Requisition of 500,000 doll<sup>rs</sup> for supporting the troops had been complied with by one State only, viz Virginia and that but in part:—that it would be absurd to proceed in the raising of men who could neither be paid cloathed nor fed, and that such a folly was the more to be shunned, as the consequences could not be foreseen, of embodying and arming men under circumstances which would be more likely to render them the terror than the support of Government. We had, he observed, been so lucky in one instance, meaning the disbanding of the army on the peace, to get rid of an armed force without satisfying their just claims, but that it would not be prudent to hazard the repetition of the experiment.

M<sup>r</sup> King made a moving appeal to the feelings of Cong<sup>s</sup> reminding them that the real object in voting the troops was, to countenance the exertions of the Gov<sup>t</sup> of Mass<sup>ts</sup>; that the silent cooperation of these military preparations under the orders of Cong<sup>s</sup> had had a great and double effect, in animating the Gov<sup>t</sup> and awing the insurgents: that he hoped the late success of the former had given a deadly blow to the disturbances, yet that it would be premature, whilst a doubt could exist as to the critical fact, to withdraw the co-operating influence of the federal measures.

He particularly and pathetically intreated Cong<sup>s</sup> to consider that it was in agitation and probably would be determined by the Legis. of Mass<sup>ts</sup> not only to bring to due punishment the more active & leading offenders, but to *disarm & disfranchise* for a limited time the great body of them; that for the policy of this measure he would not

undertake to vouch, being sensible that there were great & illustrious examples ag<sup>t</sup> it, that His confidence however in the prudence of that Gov<sup>t</sup> would not permit him to call their determinations into question; that what the effect of these rigors might be it was impossible to foresee. He dwelt much on the sympathy which they probably would excite in behalf of the stigmatized party, scarce a man was without a father, a brother, a friend in the mass of the people; adding that as a precaution ag<sup>t</sup> contingencies, it was the purpose of the State to raise and station a small military force in the most suspected districts and that £40,000, to be drawn from their impost on trade had been appropriated accordingly; that under these circumstance a new crisis more solemn than the late one might be bro't on & therefore to stop the federal enlistments and thereby withdraw the aid which had been held out, would give the greatest alarm imaginable to the Gov<sup>t</sup> and its friends, as it would look like a disapprobation & desertion of them, and if viewed in that light by the disaffected might rekindle the insurrection. He took notice of the possibility to which every State in the Union was exposed, of being visited with similar calamities—in which events they would all be suing for support in the same strain now used by the delegates from Mass<sup>t</sup> & that the indulgence now requested in behalf of that State might be granted without the least inconvenience to the U. S. as their enlistments without any countermanding orders, would not go on whilst those of the State were in competition; it being natural for men to prefer the latter service in which they would stay at home & be sure of their pay, to the former, in which they might with little prospect of it, be sent to the Ohio to fight the Indians. He concluded with the most earnest entreaties, and the fullest confidence that Cong<sup>s</sup> would not at so critical a moment and without any necessity whatever, agree to the motion, assuring them that in 3 or 4 weeks, possibly in less time, he might himself be a friend to it and would promote it.

M<sup>r</sup> Pinckney in reply contended that if the measures pursuing by Mass<sup>t</sup> were such as had been stated, he did not think the U. S. bound to give them countenance. He thought them impolitic and not to be reconciled with the genius of free Gov<sup>t</sup> and if fresh commotions should spring from them, that the State of Mass<sup>t</sup> alone should be at the charge, and abide by the consequences of their own misconduct.

M<sup>r</sup> Madison would not examine whether the original views of Cong<sup>s</sup> in the enlargem<sup>t</sup> of their military force were proper or not, nor

whether it were so to mask these views with an ostensible preparation ag<sup>st</sup> the Indians. He admitted indeed that it appeared rather difficult to reconcile an interference of Cong<sup>s</sup> in the internal controversies of a State with the tenor of the Confederation which does not authorise it expressly, and leaves to the States all powers not expressly delegated; or with the principles of Republican Gov<sup>ts</sup> which as they rest on the sense of the majority, necessarily suppose power and right always to be on the same side. He observed however that in one point of view military precautions on the part of Cong<sup>s</sup> might have a different aspect. Whenever danger was apprehended from any foreign quarter which of necessity extended itself to the federal concerns, Cong<sup>s</sup> were bound to guard ag<sup>st</sup> it, and altho' there might be no particular evidence in this case of such a meditated interference, yet there was sufficient ground for a general suspicion of readiness in G. B. to take advantage of events in this country, to warrant precautions ag<sup>st</sup> her. But leaving the question as to the original propriety of y<sup>e</sup> measure adopted and attending merely to the question whether at this moment the measure ought from a change of circumstances to be rescinded, he was inclined to think it would be more advisable to suspend than to go instantly into the rescision. The considerations which led to this opinion were

1. That though it appeared pretty certain that the main body of the insurgents had been dispersed it was by no means certain that the spirit of insurrection was subdued. The leaders too of the insurgents had not been apprehended, and parties of them were still in arms in disaffected places.

2. That great respect is due on such an occasion to the wishes and representations of the suffering member of the federal body, both of which must be judged of by what comes from her representatives on the floor. These tell us that the measures taken by Cong<sup>s</sup> have given great satisfaction & spirits to their constituents and have cooperated much in baffling the views of their internal enemies; that they are pursuing very critical precautions at this moment for their future safety and tranquility; and that the construction which will be put on the proposed resolution if agreed to by Cong<sup>s</sup> cannot fail to make very unhappy impressions, and may have very serious consequences. The propriety of these precautions depends on so many circumstances better known to the Gov<sup>t</sup> of Mass<sup>ts</sup> than to Cong<sup>s</sup> that it would be premature in Cong<sup>s</sup> to be governed by a disapprobation.

3. That every State ought to bear in mind the consequences of popular commotions if not thoroughly subdued, on the tranquility of the Union, & the possibility of its being itself the scene of them. Every State ought therefore to submit with cheerfulness to such indulgences to others, as itself may in a little time be in need of. He had been a witness of the temper of his own State (Virginia) on this occasion. It was understood by the Legislature that the real object of the military preparations on foot was the disturbance in Mass<sup>ts</sup> & that very consideration inspired the ardor which voted toward their quota, a tax on tobacco which w<sup>d</sup> not have been granted for scarce any other purpose whatever, being a tax operating very partially in the opinion of the people of that State who cultivate that article: yet this class of the Legislature were almost unanimous in making the sacrifice, because the fund was considered as the most certain that could be provided.

4. That it was probable the enlistments for the reasons given would be suspended without an order from Cong<sup>s</sup> in which case, the inconveniences suggested would be saved to the U. S. and the wishes of Mass<sup>ts</sup> satisfied at the same time.

5. That as no bounty was given for the troops, and they could be dismissed at any time, the objections drawn from the consideration of expence, could have but little force.

6. That it was contended only for a continuance of the apparent aid of Cong<sup>s</sup> for 3 or 4 weeks, the members from Mass<sup>ts</sup> themselves considering that as a sufficient time.

After the rejection of the motion as stated on the journal a dispute arose whether the vote should be entered among the secret or public proceedings. M<sup>r</sup> Pinckney insisted that in the latter [former]<sup>1</sup> case, his view which was to justify himself to his constituents would be frustrated. Most of those who voted with him were opposed to an immediate publication. The expedient of a temporary concealment was proposed as answering all purposes.

Tuesday 20. Feb<sup>y</sup>

Nothing of consequence done

<sup>1</sup> The word "former" interlined in apparently another hand.

Wednesday Feb<sup>y</sup> 21.

The Report of the Convention at Annapolis in Sep<sup>r</sup> 1786<sup>1</sup> had been long under consideration of a Committee of the Congress for the last year; and was referred over to a Grand Committee of the present year. The latter committee after considerable difficulty and discussion, agreed on a report by a majority of *one* only [see the Journal], which was made a few days ago to Cong<sup>s</sup> and set down as the order for this day. The Report coincided with the opinion held at Annapolis that the Confederation needed amendments and that the proposed Convention was the most eligible means of effecting them. The objections which seemed to prevail ag<sup>st</sup> the recommendation of the Convention by Congress, were with some 1. that it tended to weaken the federal authority by lending its sanction to an extraconstitutional mode of proceeding—with others 2. that the interposition of Cong<sup>s</sup> would be considered by the jealous as betraying an ambitious wish to get power into their hands by any plan whatever that might present itself. Subsequent to the Report, the Delegates from N. York rec<sup>d</sup> instructions from its Legislature to move in Congress for a recommendation of a convention; and those from Mass<sup>ts</sup> had, it appeared, rec<sup>d</sup> information which led them to suppose it was becoming the disposition of the Legislature of that State to send deputies to the proposed Convention in case Cong<sup>s</sup> should give their sanction to it. There was reason to believe however from the Language of the instruction from N York that her object was to obtain a new convention, under the sanction of Cong<sup>s</sup> rather than to accede to the one on foot, or perhaps by dividing the plans of the States in their appointments to frustrate all of them. The latter suspicion is in some degree countenanced by their refusal of the Impost a few days before the instruction passed, and by their other marks of an unfederal disposition. The Delegates from N.Y. in consequence of their instructions made the motion on the Journal to postpone the Report of the Committee in order to substitute their own proposition. These who voted ag<sup>st</sup> it, considered it as liable to the objection abovementioned. Some who voted for it particularly M<sup>r</sup> Madison considered it susceptible of amendment when brought before Cong<sup>s</sup> and that if Cong<sup>s</sup> interposed in the matter at all it would be well for them to do it at the instance of a State, rather than spontaneously. This motion being

<sup>1</sup> First written 1785.

lost, M<sup>r</sup> Dane from Mass<sup>ts</sup>, who was at bottom unfriendly to the plan of a Convention, and had dissuaded his State from coming into it, brought forward a proposition, in a different form, but liable to the same objection with that from N. York. After some little discussions, it was agreed on all sides except by Connecticut who opposed the measure in every form, that the Resolution sh<sup>d</sup> pass as it stands on the Journal, sanctioning the proceedings & appointments already made by the States as well as recommending farther appoint<sup>ts</sup> from other States, but in such terms as do not point directly to the former appointments.

It appeared from the debates & still more from the conversation among the members that many of them considered this resolution as a deadly blow to the existing Confederation. Doc<sup>t</sup> Johnson who voted ag<sup>st</sup> it, particularly declared himself to that effect. Others viewed it in the same light, but were pleased with it as the harbinger of a better Confederation.

The reserve of many of the members made it difficult to decide their real wishes & expectations from the present crisis of our affairs. All agreed & owned that the federal Gov<sup>t</sup> in its existing shape was inefficient & could not last long. The members from the Southern & Middle States seemed generally anxious for some republican organization of the system which w<sup>d</sup> preserve the Union and give due energy to the Governm<sup>t</sup> of it. Mr. Bingham alone avowed his wishes that the Confederacy might be divided into several distinct confederacies, its great extent & various interests, being incompatible with a single Government—The Eastern members were suspected by some of leaning towards some antirepublican establishment, (the effect of their late confusions) or of being less desirous or hopeful of preserving the Unity of the Empire. For the first time the idea of separate Confederacies had got into the Newspapers. It appeared to day under the Boston head. Whatever the views of leading men in the Eastern States may be, it would seem that the great body of the people particularly in Connecticut, are equally indisposed either to dissolve or divide the Confederacy or to submit to any antirepublican innovations.

Nothing noted till

Tuesday March 13.

Col. Grayson & M<sup>r</sup> Clarke having lately moved to have the military stores at Springfield in Massachusetts removed to some place of greater security, the motion was referred to the Secretary at War, who this day reported ag<sup>st</sup> the same as his report will shew. No opposition

was made to the report, and it seemed to be the general sense of Cong<sup>s</sup> that his reasons were satisfactory. The movers of the proposition however might suppose the thinness of Cong<sup>s</sup> (8 States only being present) to bar any hope of successful opposition.

Memor<sup>dum</sup> Called with Bingham today on M<sup>r</sup> Guardoqui, and had a long conversation touching the Western Country—the Navigation of the Mississippi—and commerce; as these objects relate to Spain & the U. S. M<sup>r</sup> B. opened the conversation with intimating that there was reason [to] believe the Western people were exceedingly alarmed at the idea of the projected Treaty which was to shut up the Mississippi and were forming committees of correspondence &c for uniting their councils & interests. M<sup>r</sup> Guar. with some perturbation replied that as a friend to the U.S. he was sorry for it, for they mistook their interest; but that as the Minister of Spain, he had no reason to be so. The result of what fell in the course of the conversation from J.M. & M<sup>r</sup> B. was, that it was the interest of the two nations to live in harmony.—

That if Congress were disposed to treat with Spain on the ground of a cession of the Mississippi, it would be out of their power to enforce the treaty—that an attempt would be the means of populating the Western country with additional rapidity—that the British had their eye upon that field, would countenance the separation of the Western from the Eastern part of N. A.; promote the settlement of it, and hereafter be able to turn the force springing up in that quarter ag<sup>st</sup> Spanish America, in cooperation with their naval armaments—that Spain offered nothing in fact to the U.S. in the commercial scale which she did not grant to all other nations from motives of interest.

M<sup>r</sup> Guardoqui would not listen to the idea of a right to the navigation of Mississippi by the U. S. contending that the possession of the two banks at the mouth shut the door ag<sup>st</sup> any such pretension. Spain never would give up this point. He lamented that he had been here so long without effecting anything; and foresaw that the consequences would be very disagreeable. What would these consequences be?—he would answer by repeating general expressions—Spain could make her own terms he said with G. Britain. He considered the commercial connection proposed as entirely in favor of the U.S. & that in a little time the ports of Spain w<sup>d</sup> be shut ag<sup>st</sup> fish. He was asked whether ag<sup>st</sup> all fish or only ag<sup>st</sup> fish from U.S.; from all places not in treaty he said with Spain. Spain would act according to her own

ideas. She would not be governed by other peoples' ideas of her interest.

He was very sorry for the instructions passed by V<sup>a</sup> (Virginia) he foresaw bad consequences from them. He had written to soften the matter as well as he c<sup>d</sup> but that troops & stores w<sup>d</sup> certainly reinforce N. Orleans in consequence of the Resolutions.

He had not conferred at all with the Minister of For. Affairs since Oct<sup>r</sup> and did not expect to confer again—He did not expect to remain much longer in America. He wished he might not be a true prophet—but it would be found that we mistook our interest, and that Spain w<sup>d</sup> make us feel the vulnerable side of our commerce by abridging it in her ports.

With an air of ostensible jocoseness he stated that the people of Kentucky would make good Spanish subjects, and that they would become such for the sake of the privilege annexed to that character.

He seemed to be disposed to make us believe that Spain & Britain understood one another—that he knew the views of G. Britain in holding the Western posts—and that Spain had it in her power to make G. B. bend to her views. He effected a misterious air on this point, which only proved that he was at a loss what to say to the probability and tendency of a connection between G. B. & the Western settlements, in case the Mississippi s<sup>d</sup> be given up by Cong<sup>a</sup>

He intimated that Spain could not grant any inlet of the American trade by *Treaty*; but that in case of a treaty, trade thro' the Mississippi as well as other channels w<sup>d</sup> be winked at.

In speaking of the Mississippi and the right of Spain he alluded to the case of the Tagus which Spain had never pretended to a right of navigating thro' Portugal. It was observed to him that in estimating the rights of nations in such cases regard must be had to their respective proportions of territory on the River—Suppose Spain held only 5 acres on each side at the mouth of Mississippi w<sup>d</sup> she pretend to an exclusive right in such case? He said that was not the case; Spain had a great proportion. *How much?* After some confusion & hesitation he s<sup>d</sup> she claimed at least as far as the Ohio. We smiled & asked how far Eastwardly from the Mis<sup>si</sup> he became still more at a loss for an answer & turned it off by insinuating that he had conversed on that matter with the Secretary of F. Affairs.

He was reminded of the doctrine maintained by Spain in 1608, as to the Scheld. He seemed not have known the fact, and resolved it into some political consideration of the times.



He was asked whether the partition of the B. Empire could deprive this part of it of the natural rights appertaining to the King of G. B. as King of this Country—and even whether the rupture of G. B. & Spain could deprive, in justice, the U. S. of Rights which they held under the Treaty of 1763 whilst they remained a part of the British Empire? Whether in case no such rupture had happened, the Treaty between Spain & that part of the Empire would have been dissolved by the Resolution? &c &c—He did not seem well to understand the principles into which such questions resolved themselves—and gave them the go by, referring the claim of Spain principally to her conquests of the British possessions in N. America.

He betrayed strongly the anxiety of Spain to retard the population of the Western Country; observing that whenever sufficient force should arise therein, it w<sup>d</sup> be impossible for it be controuled: That any conciliating measures that might be taken now, would have little effect on their temper & views 50 or 100 years hence when they should be in force.

When we rose to take leave, he begged us to remember what he had said as to the inflexibility of Spain on the point of the Mississippi and the consequences to America of her adherence to her present pretensions.

Nothing noted till

Tuesday March 20

M<sup>r</sup> Jay's Report on Treaty of peace taken up.

M<sup>r</sup> Yates objected to the 1<sup>st</sup> Resol<sup>n</sup> which declares the Treaty to be a law of the land. He said the States or at least his State did not admit it to be such till cloathed with legal sanction. At his request he was furnished with a copy of the Resolution for the purpose of consulting such as he might chuse.

Wednesday Mar. 21.

The subject of yesterday Resumed.

M<sup>r</sup> Yates was now satisfied with the Resolutions as they stood. The words "constitutionally made" as applied to the Treaty seemed to him on consideration to qualify sufficiently the doctrine on which the Resolution was founded.

The 1<sup>st</sup> Resolution declaring the Treaty to have the force of a law & denying the Right of any State to contravene it, was agreed to without dissent & almost without observation.

The 2<sup>d</sup> & 3<sup>d</sup> Resolutions urging on the States a repeal of all laws contravening the Treaty, (1<sup>st</sup> that they might not continue to *operate*, as violations of it. 2<sup>d</sup> that questions might be avoided touching their validity) underwent some criticisms & discussions.

M<sup>r</sup> Varnum & M<sup>r</sup> Mitchel thought they did not consist with the first which declared such laws to be void, in which case they w<sup>d</sup> not *operate* as violations.

M<sup>r</sup> Madison observed that a Repeal of those contravening laws was expedient & even necessary to free the Courts from the bias of their oaths which bound the Judges more strongly to the State than the federal authority. A distinction too he said might be started possibly between laws prior & laws subsequent to the Treaty; a Repealing effect of the Treaty on the former, not necessarily implying the nullity of the latter. Supposing the Treaty to have the validity of a law *only*, it would repeal all antecedent laws. To render succeeding laws void it must have more than the *mere* authority of a law. In case these succeeding laws contrary to the Treaty should come into discussion before the Courts, it would be necessary to examine the foundation of the federal authority, and to determine whether it had the validity of a Constitution, paramount to the legislative authority in each State. This was a delicate question, and studiously to be avoided as it was notorious that although in some of the States the Confederation was incorporated with & had the sanction of their respective Constitutions, yet in others it rec<sup>d</sup> a legislative ratification only and rested on no other basis. He admitted however that the word *operate* might be changed for the better & proposed in its place, the words 'be regarded' as violations of the Treaty which was agreed to without objection.

M<sup>r</sup> King in the course of the business observed that a question had been raised in N. York, whether stipulations as they might affect Citizens only—and not foreigners could, restrain the States from legislating with respect to the former, and supposed that such stipulations could not.

The Resolutions passed unanimously  
Nothing till

Friday Mar. 23<sup>d</sup>

The Report for reducing salaries agreed to as amended unanimously. The proposition for reducing the salary of the Secretary of F. Affairs to 3000 dollars was opposed by M<sup>r</sup> King & M<sup>r</sup> Madison who entered into the peculiar duties & qualifications required in that office, and its

peculiar importance. M<sup>r</sup> Mitchel & M<sup>r</sup> Varnum contended that it stood on a level with the Secretaryship to Congress. The yeas & nays were called on the question & it was lost. A motion was then made to reduce the salary of 4000 doll<sup>r</sup> to 3500. M<sup>r</sup> Clarke who had been an opponent to any reduction, acceded to this Compromise. M<sup>r</sup> King suffered his colleague to vote in the affirmative. There being six States for reducing to 3500, and M<sup>r</sup> Carrington being on the same side in opposition to M<sup>r</sup> Grayson, M<sup>r</sup> Madison gave up his opinion to so great a majority and the Resolution for 3500 passed. The preceding yeas & nays on the motion for reducing to 3000 was then withdrawn & no entry made of it. It seemed to be the general opinion that the salary of the Secretary at war was disproportionately low, & ought to be raised. The Comtee would have reported an augmentation, But conceived themselves restrained by their comission w<sup>ch</sup> was to reduce not to revise the civil list.

Nothing of consequence till

March 28<sup>th</sup>—Wednesday.

M<sup>r</sup> King reminded Cong<sup>s</sup> of the motion of the            day of            for discontinuing the inlistments and intimated that the State of things in Mass<sup>ts</sup> was at present such that no opposition would now be made by the Delegation of that State: a Comittee was appointed, in general to consider the military Establishment and particularly to report a proper Resolution for stopping the inlistments.

The Virg<sup>a</sup> delegates laid before Cong<sup>s</sup> Sundry papers from the Executive of that State relating to the seizure of Spanish property by Gen<sup>l</sup> Clarke—and the incendiary efforts on foot in the Western Country ag<sup>st</sup> the Spaniards &c—No comment was made on them, nor was any vote taken.

Thursday March 29.

The Comittee app<sup>d</sup> to confer with the Treas<sup>r</sup> Board on the great business of a final settle<sup>mt</sup> of the acc<sup>ts</sup> of the U. States, reported that they be discharged, and the Board instructed to report an ordinance. M<sup>r</sup> King in explanation s<sup>d</sup> that it was the sense of the Comtee and of the Treas<sup>r</sup> board both, that Comiss<sup>rs</sup> sh<sup>d</sup> be appointed with full & final powers to decide on the claims of the States ag<sup>st</sup> the Union &c—The Report was agreed to nem. contr.

Sundry papers from the Illinois complaining of the grevances of that Country which had arrived by a special express were laid before Cong<sup>s</sup> by the presid<sup>t</sup> and committed.

M<sup>r</sup> Mitchell from Conecticut observed that the papers from Virg<sup>a</sup> communicated yesterday were of a very serious nature, and shewed that we were in danger of being precipitated into disputes with Spain which ought to be avoided if possible; & moved that these papers might be refered to the Committee on the Illinois papers, which was done without opposition; M<sup>r</sup> King only observing that they contained mere information, & did not in his view need any step to be taken on them.

The Virg<sup>a</sup> delegates communicated to M<sup>r</sup> Guardoqui the proceedings of the Executive relative to Clarke's seizure of Spanish property, at which he expressed much regret, as a friend to the U.S. though as a Spanish Minister he had little reason to dread the tendency of such outrages. The communication was followed by a free conversation on the Western Country & the Mississ<sup>p</sup><sup>l</sup>. The observations of the delegates tended to impress him 1. with the unfriendly temper which would be produced in the Western people both ag<sup>t</sup> Spain & the U.S. by a concerted occlusion of that river. 2. with the probability of throwing them into the arms of G.B.—3. of accelerating the population of that Country after the example of Vermont—4. the danger of such numbers under British influence as well to Spanish America as to the Atlantic States—5. the universal opinion of right in the U.S. to the free use of the River—6. the disappointment of the people of America at an attempt in Spain to make their condition worse as Citizens of an independent State in amity & lately engaged in a common cause, than as subjects of a formidable & unfriendly power—7. the inefficacy of an attempt in Cong<sup>s</sup> to fullfil a Treaty for shutting the Mississ<sup>p</sup><sup>l</sup> & the folly of their entering into such stipulation. 8 that it would be wise in Spain to foresee & provide for events that could not be controlled, rather than to make fruitless efforts to prevent, or procrastinate them.

M<sup>r</sup> G. reiterated his assertion that Spain would never accede to the claim of the U.S. to navigate the river. 2. urged that the result of what was said was that Cong<sup>s</sup> could enter into no Treaty at all. 3. that the trade of Spain was of Great importance & would certainly be shut ag<sup>t</sup> U.S., affecting to disregard the remark that if Spain continued to use fish flower &c. her interest would restrain her from shutting her ports ag<sup>t</sup> the American competition—4. He signified that he had observed the weakness of the Union & foreseen its probable breach; that he lamented the danger of it as he wished to see it

preserved & strengthe<sup>d</sup> which was more than *France*<sup>1</sup> or any other Nation in Europe did. No reply was made to this remark. The sincerity of his declaration as to his own wishes was not free from suspicion.—5. He laid much stress on the service Spain had rendered the U.S. during the struggle for their independence, considering it as laying them under great obligations. The reality of the service was not denied, but he was reminded of the interest Spain had in dividing a power which had given the law to the House of Bourbon & *compelled* Spain to relinquish, as he said, the exclusive use of the Mississippi.—6 In answer to the remark that Spain was for putting the U.S. on a worse footing than they stood on as British subjects, he not only mentioned the necessity which dictated the Treaty of 1763, but contended that the recovery of W. Florida made a distinction in the case. It was observed to him that as the navigable channel of the Miss<sup>pi</sup> ran between the Island & the Western Shore, Spain had the same pretext from holding both shores, when Florida was a British Colony as since. He would neither accede to the inference, nor deny the fact.—7. He intimated with a jocular air the possibility of the Western people becoming Spanish subjects; and with a serious one that such an idea had been brought forward to the King of Spain by some person connected with the Western Country, but that his Majesty's dignity & character could never countenance it. It was replied that that consideration was no doubt a sufficient obstacle—but it was presumed that *such subjects* would not be very convenient to Spain. It would be much more for the interest of Spain that they should be friendly neighbours, than refractory subjects. It did not appear that he viewed that matter in a different light.—8. He disclaimed his having ever assented to or approved of any *limited* occlusion of the Missip<sup>l</sup> tho' in a manner that did not speak a real inflexibility on that point. 9. It appeared clearly that the check to the Western Settlements was a favorite object & that the occlusion of the Missip<sup>l</sup> was considered as having that tendency. 10. The futility of many of his arguments & answers satisfied the Delegates that they c<sup>d</sup> not appear convincing to himself, and that he was of course pursuing rather the ideas of his Court than his own.

<sup>1</sup> From this it may be inferred that he does not regard France as favorable to the claims of Spain touching the Mississippi.

Friday Mar. 30<sup>th</sup>

M<sup>r</sup> Jay's report in favor of the admission of Phineas Bond as British Consul for the Middle States, was called for by M<sup>r</sup> Cadwallader. M<sup>r</sup> Madison said he was far from being satisfied of the propriety of the measure: he was a friend in general to a liberal policy & admitted that the U.S. were more in the wrong in the violation of the Treaty of Peace than G.B. But still the latter was not blameless. He thought however the question turned on different considerations. 1. The facility of the U.S. in granting privileges to G.B. without a Treaty of Commerce, instead of begetting a disposition to conclude such a Treaty had been found on trial to be made a reason ag<sup>st</sup> it. 2. The indignity of G.B. in neglecting to send a public minister to the U.S. notwithstanding the lapse of time since M<sup>r</sup> Adams's arrival there, gave them no titles to favors in that line and self-respect seemed to require that the U.S. should at least proceed with distrust & reserve.

M<sup>r</sup> Grayson thought as the Secretary had done that it would be good policy to admit M<sup>r</sup> Bond, and that it could not be decently & without offence, refused after the admission of M<sup>r</sup> Temple.

M<sup>r</sup> Clarke said he was at first puzzled how to vote, as he did not like the admission proposed on one hand, and on the other thought it not decent to refuse it after the admission of M<sup>r</sup> Temple. On reflecting however that M<sup>r</sup> Temple was admitted at a time when hopes were entertained of a Comerical Treaty which had since vanished—& that the question might be postponed generally without being negatived, he should accede to the idea of doing nothing on the subject.

M<sup>r</sup> Varnum animadverted on the obnoxious character of M<sup>r</sup> Bond, and conceived that alone a sufficient reason for not admitting him. The postponement was agreed to without any overt dissent except that of M<sup>r</sup> Grayson.

The delegates from N. Carolina comunicated to Congress sundry papers conspiring with the other proofs of discontent in the Western Country at the supposed surrender of the Miss<sup>si</sup> and of hostile machinations ag<sup>st</sup> the Spaniards.

It was ordered that they should be referred to the Secr<sup>y</sup> of Foreign Affairs for his information. It was then moved that the papers relative to the same subjects from Virg<sup>a</sup>, yesterday referred to a Comittee should, after discharging the Comtee. be referred to the Office of Foreign Aff<sup>s</sup>. M<sup>r</sup> Clarke proposed to add "to report"—This was objected to by M<sup>r</sup> King, and brought on some general obser-

ventions on the proceedings of Cong<sup>s</sup> in the Affairs of the Mississippi. It was at length agreed that the reference s<sup>d</sup> be made without an instruction to report. M<sup>r</sup> Pierce then observed that it had been hinted by M<sup>r</sup> Madison as proper to instruct the Sec<sup>y</sup> of F. Aff<sup>rs</sup> to lay before Cong<sup>s</sup> the state of his Negotiation with M<sup>r</sup> Guardoqui, and made a motion to that effect which was seconded by several at once.

M<sup>r</sup> King hoped Cong<sup>s</sup> would not be hurried into a decision on that point, observing that it was a very delicate one—that he did not altogether like it—and yet it was of such a nature that it might appear strange to negative it. He desired that it might at least lie over till Monday.

M<sup>r</sup> Madison concurred in wishing the same, being persuaded, that the propriety of the motion was so clear, that nothing could produce dissent, unless it were forcing members into an unwilling decision.

The motion was withdrawn, with notice that it would be renewed on Monday next.

Monday April 2<sup>d</sup>

M<sup>r</sup> Pierce renewed his motion instructing the Sec<sup>y</sup> of F. A. to lay before Cong<sup>s</sup> the state of his negotiation with M<sup>r</sup> Guardoqui which was agreed to without observation or dissent.

See Journals till

Tuesday April 11.

M<sup>r</sup> Kerney moved that Cong<sup>s</sup> adjourn on the last friday in April to meet on the                    day of May in Philad<sup>a</sup>—Georgia N. C. V<sup>a</sup> Del<sup>o</sup> Pen<sup>a</sup> N. Jersey & R. I. were for it. The merits of the proposition were not discussed. The friends to it seemed sensible that objections lay ag<sup>st</sup>: the particular moment at which it was proposed, but considering the greater centrality of Philad<sup>a</sup> as rendering a removal proper in itself, and the uncertainty of finding 7 States present & in the humour again, they waved the objections. The opinion of myself was that the meeting of the ensuing Cong<sup>s</sup> in Philad<sup>a</sup> ought to be fixed, leaving the existing Cong<sup>s</sup> to remain throughout the federal year in N. York. This arrangement<sup>t</sup> w<sup>d</sup> have been less irrita[t]ing, and would have had less the aspect of precipitancy or passion, and w<sup>d</sup> have repelled insinuations of a personal considerations with the members—The question was ag<sup>d</sup> to lie over till tomorow.

Wednesday April 12.

M<sup>r</sup> Varnum moved that the motion for removing to Philad<sup>a</sup> should be postponed generally, as the assent of R.I. was necessary, to make seven States, no one chose to press a decision: the postponement was therefore ag<sup>d</sup> to nem. con. and the proceedings of yesterday involving the yeas & nays on some immaterial points struck from the Journals.

See Journal till

April 18<sup>th</sup> Wednesday.

It having appeared by the Report of M<sup>r</sup> Jay on the instruction agreed to monday the 2<sup>d</sup> Inst. & on information ref<sup>d</sup> to him concerning the discontents of the Western people: that he had considered the act of 7 States as authorising him to suspend the use of the Miss<sup>is</sup> and that he had accordingly adjusted with M<sup>r</sup> Guardoqui an article to that effect; that he was also much embarrassed by the ferment excited in the Western Country by the rumored intention to cede the Miss<sup>is</sup> by which such cession was rendered inexpedient on our side; and on the other side, by the disinclination in another part of the Union to support the use of the River by arms if necessary: It was proposed by M<sup>r</sup> Madison as an expedient which if it should answer no other purpose would at least gain time; that it should be Resolved "that the *present State* of the Negotiations with Spain [meaning the step taken under the spurious authority of seven states] and of the affairs of the U. S. [meaning the temper & proceedings in the Western Country], renders it expedient that the Minister Plenipo. at the Court of France should proceed under a special commission, to the Court of Madrid, there to make such representations, and to urge such negotiations as will be most likely to satisfy the said Court of the friendly disposition of the U. S. and to induce it to make such concessions relative to the Southern limit of the s<sup>d</sup> States, and their right to navigate the river Miss<sup>is</sup> and to enter into such commercial stipulations with them as may most effectually guard against a rupture of the subsisting harmony, and promote the mutual interest of the two nations: And that the Sec<sup>y</sup> of F. A. prepare & report the instructions proper to be given to the said Minister, with a proper commission & letter of credence, and that he also report the communications and explanations which it may be advisable to make to M<sup>r</sup> Guardoqui relative to this change in the mode of conducting the negotiations with his Court."



M<sup>r</sup> King said he did not know that he should be opposed to the proposition as it seemed to be a plausible expedient, and as something seemed necessary to be done; but that he thought it proper that Cong<sup>s</sup> should before they agreed to it, give the Sec<sup>r</sup> for F. A. an opportunity of stating his opinions on it, and accordingly moved that it should be referred to him.

M<sup>r</sup> Clarke & M<sup>r</sup> Varnum opposed the reference, it being improper for Cong<sup>s</sup> to submit a principle for deciding which no further *information* was wanted, to the opinion of their Minister. The reference being however, at length acceded to by the other friends of the proposition on the principle of accomodation, it had a vote of seven States.

Thursday April 19<sup>th</sup>

The instructions of Virg<sup>s</sup> ag<sup>st</sup> relinquishing the Mississippi were laid before Cong<sup>s</sup> by the delegates of that State with a motion that they should be referred to the department for F. A. by way of information.

The reference was opposed by M<sup>r</sup> King & M<sup>r</sup> Benson as unnecessary for that purpose, the instructions having been printed in the newspapers.

In answer to this it was observed that the memorial accompanying the instructions had never been printed, that if it had, no just objection could be thence drawn ag<sup>st</sup> an official communication; that if Cong<sup>s</sup> would submit a measure as they had done yesterday to the opinion of their Minister they ought at least to supply him with every fact in the most authentic manner, which could assist his judgment; and that they had actually referred to the same Minister communications relative to the Western views, less interesting & authentic, and which he had made the basis of a Report to Cong<sup>s</sup>.

The motion was lost. Mass<sup>ts</sup> and New York being ag<sup>st</sup> it, and Connecticut divided. M<sup>r</sup> Mitchel from the latter State was displeas'd at the negatives as indicating a want of candor & moderation on the subject.

Monday April 23<sup>d</sup>

M<sup>r</sup> Jay's Report stating objections ag<sup>st</sup> the motion of M<sup>r</sup> Madison for sending M<sup>r</sup> Jefferson to Madrid was taken into consideration.

M<sup>r</sup> Madison observed that M<sup>r</sup> Jay had not taken up the proposition in the point of view in which it had been penn'd; and explained what that was; to wit: that it was expedient to retract the step taken for

ceding the Mississippi, and to do it in a manner as respectful & conciliating as possible to Spain, and which at the same time would procrastinate the dilemma stated by M<sup>r</sup> Jay. He said he was not attached to the expedient he had bro't forward, and was open to any other that might be less exceptionable.

M<sup>r</sup> Ghoram avowed his opinion that the shutting the Mississippi would be advantageous to the Atlantic States, and wished to see it shut.

M<sup>r</sup> Madison animadverted on the illiberality of his doctrine, and contrasted it with the principles of the Revolution, and the language of American patriots.

Nothing was done in the case.

Wednesday April 25.

M<sup>r</sup> Madison observing to Cong<sup>s</sup> that he found a settled disinclination in some of the delegations to concur in any conciliatory expedient for defending the Mississippi ag<sup>st</sup> the operation of the vote of *seven States* and that it was hence become necessary to attack directly the validity of that measure to the end that the adversaries to it, and particularly the instructed delegations, might at least discharge their duty in the case, made the following motion:

“Whereas it appears by the Report of the Secretary for the department of For: Aff<sup>s</sup> made on the            instant that in consequence of a vote entered into by Seven States on the            day of            last, he has proceeded to adjust with M<sup>r</sup> Guardoqui an article for suspending the right of the U.S. to the common use of the River Mississippi below their Southern boundary: And whereas it is considered that the said vote of seven States having passed in a case, in which the assent of nine States is required by the articles of Confederation, is not valid for the purpose intended by it; and that any further negotiations in pursuance of the same may eventually expose the U. S. to great embarrassments with Spain as well as excite great discontents and difficulties among themselves; Resolved that the Sec<sup>y</sup> for the said department be informed that it is the opinion of Congress that the said vote of seven States ought not to be regarded as authorising any suspension of the use of the River Mississippi by the U.S.; and that any expectation thereof which may have been conceived on the part of Spain ought to be repressed.”

M<sup>r</sup> King reminded Congress that this motion was barred by the rule, that no question should be revived which had been set aside by the previous question, unless the same states or an equal number be present, as were present at the time of such previous question. This rule had been entered into in consequence of a similar motion made shortly after the vote of seven States had passed. M<sup>r</sup> King contended that this rule was a prudent one & recommended by the practice of all deliberative assemblies, who never suffered questions once agitated & decided to be repeated at the pleasure of the unsuccessful party.

M<sup>r</sup> Madison admitted that the rule if insisted on was a bar to his motion; but that he had not expected that it would be called up; being so evidently improper in itself, and the offspring of the intemperance which characterized the epoch of its birth as it was called up however it was because necessary that a preliminary motion for its repeal sh<sup>d</sup> be made, and which he accordingly made. His objections ag<sup>st</sup> the rule were 1. That it was an attempt in one Cong<sup>s</sup> to bind their successors which was not only impracticable in itself, but highly unreasonable in the very instance which gave birth to the rule. 12 States were on the floor at the time. 7 were for the previous question. 5 ag<sup>st</sup> it. The casting number therefore was but two. was it not unreasonable y<sup>t</sup> 11 States unanimously of a contrary opinion should be controuled by this small majority when 12 were present; & yet such would be the operation of the rule if 11 States only should at any time happen to be present, altho' they should be unanimous in the case.

2. The operation of the rule in another respect was still far more reprehensible. In the former case the 11 States, or even 7. could extricate themselves by a repeal of the rule. In case a number less than 7 should wish to justify themselves by any particular motion, they might be precluded by such a rule. 6 States instructed by their constituents to make a particular proposition, or to enter a particular protest might be thus fettered by a stratagem of 7 States. In the case actually depending 3 States were instructed, and two if not 3 more ready to vote with them.

3. The practice of other Assemblies did not reach this case; and if it did, the reason of it w<sup>d</sup> be inapplicable. The restriction in other assemblies related to the same assembly & even to the same session. Here the restriction is perpetual—In Legislative assemblies no great inconvenience could happen from a suspension of a law for a limited

time in Executive Councils, which are involved in the Constitution of Cong<sup>s</sup> and particularly in military operations & negotiations. The vicitude of events would often govern, and a measure improper on one day might become necessary the next.

M<sup>r</sup> Clarke & M<sup>r</sup> Varnum contended that the rules of the Cong<sup>s</sup> for the last year were not in force during the present, and supposed that a repeal was unnecessary.

In the course of this discussion the question as to the validity of the vote of 7 States and the merits of the proposition of M<sup>r</sup> Madison barred by the rule, incidentally came into view. The adversaries to the latter did not maintain the validity, or rather declined studiously giving an opinion on it. They urged only the impropriety of any exposition by Cong<sup>s</sup> of their own powers & of the validity of their own acts: They were answered that the exposition must be somewhere, and more properly with Cong<sup>s</sup> than with one of their *Ministerial* officers—that it was absurd to say that Cong<sup>s</sup> with information on their table that a Treaty with a foreign nation was going on without a constitutional sanction should forbear out of such scruple to arrest it, and prevent the dilemma which w<sup>d</sup> ensue, of either recognising an unconstitutional proceeding, or of quarrelling with the King of Spain. that Cong<sup>s</sup> had frequently asserted & expounded their own powers and must frequently be obliged to do so. What was the late address to the States on the subject of the Treaty of peace, but an exposition & vindication of their constitutional powers: that in the vote itself: the entry “so it was resolved in the affirmative” asserted it to be valid & constitutional; the vote of 7 states when 9 were req<sup>d</sup> being otherwise to be entered like a vote of 6 States in the negative. It appearing to be the inflexible predetermination of the advocates for the Spanish Treaty, to hold fast every advantage they had got, the debate was shortened and an adjournment took place without any question.

M<sup>r</sup> K. in conversation repeatedly, though not in public debate, maintained that the entry “so it was resolved in the affirmative” decided nothing as to the validity of the vote of 7 States for yielding the Mississippi—and that they amounted to no more than a simple affirmation or summary repetition, of the fact that the said seven States voted in the manner stated ! ! !

Thursday April 26.

The question on the motion to repeal the rule was called for. After some little conversation M<sup>r</sup> Clarke moved that it might be postponed, which was agreed to.

Nothing further was done in this business till Wednesday May 2. when I left N. York for the Convention to be held in Philadelphia.

It was considered on the whole that the project of shutting the Mississippi was at an end; a point deemed of great importance in reference to the approaching Convention for introducing a change in the federal Government, and to the objection to an increase of its powers foreseen from the jealousy which had been excited by that project.



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APPENDICES

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## APPENDIX A

LIST OF REPORTS RENDERED IN THE CONTINENTAL CONGRESS DURING THE  
FEDERAL YEAR 1786-1787, WHICH WERE NEGATIVED OR NOT ACTED ON DURING  
THE YEAR <sup>1</sup>

<i>Delivered</i>	<i>Acted on</i>	<i>Reports—Subjects</i>
1787		
Feb. 3 <sup>d</sup>	transferred	Sec <sup>y</sup> at War. Instructions of Sup <sup>r</sup> l:d <sup>s</sup> of I: affairs.
12	transferred O	continuance of Comm <sup>r</sup> s of State acct <sup>s</sup> , by B <sup>d</sup> of Treas <sup>y</sup>
"	transferred N	Gen <sup>l</sup> C: Scott, by B <sup>d</sup> of Treas <sup>y</sup>
20	transferred	On Instructions to Superint <sup>d</sup> for Indian affairs
26	transferred	On Regimental Agents to compel to account for <i>certificates</i> , b <sup>d</sup> treas <sup>y</sup>
March 8	transferred N	James Hendricks, Board of Treasury.
	transferred	James Thomson, Comm <sup>r</sup> of Army Acct <sup>s</sup>
	transferred N	H: W: Archer, Comm <sup>r</sup> of Army Acct <sup>s</sup>
13	tran	On removal of Stores from Springfield by Sec <sup>y</sup> at war
15	transferred	On Pet: R Lawrence by Sec <sup>y</sup> foreign affairs
19	transferred N	On N. Appleton's application. B <sup>d</sup> treas <sup>y</sup>
	transferred N	On A. Yates jun. d <sup>o</sup> ..... d <sup>o</sup>
21	transferred N	On mem <sup>l</sup> M. Schmyser..... d <sup>o</sup>
26	transferred N	On M <sup>r</sup> Bingham's application ..... d <sup>o</sup>
28	transferred N	On Willing Morris and Swanwicks application
29	transferred	On U Forrest's letter Sec <sup>y</sup> for <sup>o</sup> Affairs
April 3	transferred N	On Elizabeth <i>Gaudin</i> by com <sup>r</sup> Marine acco <sup>ts</sup>
10	transferred N	on Maj <sup>r</sup> <i>John Porters</i> Mem <sup>l</sup> .
12	transferred	State of negotiations with M <sup>r</sup> Gardoqui, Sec <sup>y</sup> f: Affairs.
"	transferred	<i>Joseph Lewis</i> Mem <sup>l</sup> , Comm <sup>r</sup> of marine Department

<sup>1</sup> This list is taken from the entries for 1787 in *Reports of Committees, Papers of the Continental Congress*, No. 189, pp. 22-26. The first column gives the date the report was rendered. The entry "transferred" in the second column indicates that the entry was passed to the lists made on November 6, 1787, for use in the sessions of the federal year 1787-1788, which appear on pp. 27-33. The letter N indicates that the report negatived and O that it became obsolete.

<i>Delivered</i>	<i>Acted on</i>	<i>Reports—Subject</i>
1787		
April 13 <sup>th</sup>	transferred	Papers from Exec <sup>ve</sup> of Virginia and } Sec <sup>y</sup> for <sup>a</sup> Delegates of North Carolina } affairs.
18	transferred N	On Col Mentges claim..... b <sup>d</sup> treas <sup>y</sup>
	transferred N	On Lydia Wallingford's claim..... b <sup>d</sup> treas <sup>y</sup>
	transferred	On M <sup>r</sup> Madison's motion..... Sec <sup>y</sup> foreign aff <sup>rs</sup>
	transferred	Andrew M <sup>o</sup> Farlane
May 7	transferred	on papers relating to Post S <sup>t</sup> Vinents, Illinois etc.
11	transferred	On Sam <sup>l</sup> Francis letter May 2 <sup>d</sup> 1787.
July 4	transferred	Instructions to M <sup>r</sup> Jay, touch <sup>g</sup> negotiations w <sup>th</sup> Spain
	transferred O	Ag <sup>ts</sup> issue of Indents for Int in Virg <sup>a</sup> , board of treas <sup>y</sup>
	transferred	Punishing Coiners and the importers of copper
	transferred	Preventing unjust Attacks on the Indians.
	transferred	On letters of Judge Hanson and Judge Golds- borough
Aug. 3 <sup>d</sup>	transferred O	on establishing a public printer
Sept. 24	transferred	On memorial M <sup>r</sup> Van Berckell
	transferred	On S <sup>r</sup> J. Temple's letter Sec <sup>y</sup> for foreign affairs
	transferred N	On B. Norton d <sup>o</sup>
	transferred	On Jed. Huntington Com <sup>r</sup> army acco <sup>ts</sup>
	transferred	On pet. French and C <sup>o</sup> Sec <sup>y</sup> for for <sup>a</sup> Affairs
Sept. 27	transferred N	On pet: William Blodget. Com <sup>r</sup> of army acco <sup>ts</sup>
Oct. 4	transferred N	On mem Rutgers Lush and Lansing
	transferred	On case of Widows and mem <sup>l</sup> Hannah Douglass
	transferred N	On Tho <sup>s</sup> H Cushing's case Sec <sup>y</sup> at war
	transferred	On applications for Sea letters

## APPENDIX B

### LISTS OF REPORTS FORMED AT CLOSE OF THE SESSION OF CONGRESS FOR 1786<sup>1</sup>

#### REPORTS OF COMMITTEES.

November 6, 1786.

<i>Read</i>	<i>Acted on</i>	<i>Reports.</i>
May 2	transferred	Artillery, pay of,
1785 Nov 30	transferred	Doct Arnold, settle <sup>t</sup> of his Acco <sup>ts</sup>
	d°	E. Blaine d°
	d°	Brewster, compensation for services and money expended
1786 Oct 9	d°	Berrear, settle <sup>t</sup> of his Acco <sup>ts</sup>
10	July 31, 1787	D. Campbell, his claim
	transferred	Catharine, Indian, for her services
	filed	Confederation, Add: Article regul: trade
	d°	ditto voting
Aug 7	d°	ditto federal powers, Grand Com <sup>ee</sup>
Oct 3	transferred	J Cuyler's claim for 95 head of cattle
	transferred	Commercial treaties
	transferred	Continental Currency
Aug 16	transferred	Domestic debt, mode for extinguishing it
	transferred. O.	W. Duer, for settling his claim
	transferred. O.	S Deane . . . d°
	transferred	Ely, Col. for extra services
Sept 18	transferred. O.	Etiquette
	transferred	T. France, compensation for his trouble bring money from Boston
Aug. 16	transferred. O.	Funds supplementary the states w <sup>ch</sup> have granted &c.
	transferred. O	A Fowler's claim for lands in Western country

<sup>1</sup> *Papers of the Continental Congress*, No. 189, pp. 15-21. These lists under several headings in alphabetical order of subjects, were apparently made by Thomson to have readily at hand all matters which might be called up for further consideration or for reconsideration. Subjects which were acted upon in 1787 have the date of action entered in the second column. In November, 1787, a new list was made and all items on which no action had been taken in the session of 1787 were transferred to this new list. This transfer is indicated by the word "transferred" entered in the second column.

<i>Read</i>	<i>Acted on</i>	<i>Reports.</i>
Oct. 16	Feb <sup>y</sup> 20	E Hunter's claim for money stolen referred to board of treas <sup>y</sup>
	transferred O	B. Harwood, claim for signing money
	transferred	G. Hands claim for exp. in separate Command
	transferred	d <sup>o</sup> for cloathing
	transferred	Halsted for supplies furnished in Canada
	transferred. O.	Journals of Congress, for reprinting
Oct. 26	transferred O	Lawrence and Morris respect <sup>s</sup> the board of treas <sup>y</sup>
	transferred	Capt M <sup>e</sup> Lean's claim
	transferred. O	Massachusetts disqualifying motion
	transferred	G Measam's <i>will</i>
	transferred	Militia plan recommended
	transferred O	Post Office for raising a revenue from Ordinance for establishing
June 15	transferred	Lady Sterling's claim for balance due
Aug 28	transferred O	Capt' Stewart and Cady's claim
Oct 5	transferred O	Ja <sup>s</sup> Smith's claim
18	Oct: 25, 1787	Rev <sup>d</sup> R. Smith
Aug 4	transferred O	Gen <sup>l</sup> S <sup>t</sup> Clairs claim referred to com <sup>t</sup> for Army Acco <sup>ts</sup> to take order.
Oct. 10	Feb <sup>y</sup> 20	Secretary at War his powers
	transferred	Slavery to prevent it
	13 July 1787	Cha <sup>s</sup> Stockley
	transferred	Virginia Gov <sup>ts</sup> letter respect <sup>s</sup> Indians
	transferred O	John Weiss, drum major recommended to Rhode Isl <sup>d</sup>
	transferred O	Mary Wooster, her half pay
	transferred	Hez <sup>b</sup> Whitmore, farther allowance to be made him
Aug 26	Feb <sup>y</sup> 20 <sup>th</sup>	Marinus Willet, pay and subsistance of his regiment referred to board of treas <sup>y</sup> .
Sept 19	transferred. O	Western Country temporary governm <sup>t</sup>
		Motion of M <sup>r</sup> Monroe grand Com <sup>ee</sup> report on
	transferred O	Western posts
	transferred O	Gen <sup>l</sup> Washington, allowance to
		<i>List of Reports obsolete or negative</i>
	transferred	John Buhler, for old cont. Currency
	transferred	Count Beaufort for obtaining a tract of land.
	transferred	Canadian and Nova Scotia Refugees
	transferred	Val: Eckharts claim
	transferred	Nath. Fuller's d <sup>o</sup>
	transferred O	Florat de florimont d <sup>o</sup>
	transferred	A Hutchins

<i>Read</i>	<i>Acted on</i>	<i>List of Reports obsolete or negative</i>
	transferred	J. Jackson, J. P. Jones pilot.
	transferred	W. Irwine, saltworks
	transferred	Sic Kesar
	transferred	J. Lucas
	transferred	Capt <sup>s</sup> Leary and Harding
	transferred	Col H B. Livingston
	transferred	Navy Officers for depreciation of pay
	transferred	J. Nourse for encrease of pay
	April 11, 1787	Navy Officers, allowance while sitting on Courts Martial
	transferred	Oball, an Indian, and Obediah Robins
	transferred	Doct Oliphant, to be paid as director gen <sup>l</sup>
	transferred	Post bet: Philad <sup>a</sup> and fort M <sup>c</sup> Intosh
	transferred	lieut col Pannil
	transferred	O. Pollock to be paid bal: due him
	transferred	Presidents household
	transferred	Rich: Philips for extra allowance.
	transferred	Sam <sup>l</sup> Prentice, to be paid as col.
	transferred	Maj. Platt for Extra pay
	transferred	A Pepin, a canadian
	transferred	Quarter masters to S <sup>o</sup> Army allowance to
	transferred	B. P. Smith for revision of his Acco <sup>t</sup>
	transferred	Ship timber in Georgia to be sold
	transferred	D. Sproat, to be paid for advances to prisoners
	transferred	Turnbull, Marmie and C <sup>o</sup> to have possession of fort pitt
	transferred	Levi Walker
	transferred	Col Walker
	<i>Passed</i>	<i>Board of Treasury</i>
Oct 13	Oct 2, 1787	J Q. Adams his salary
	transferred	Agents continental, allowance to
	transferred. O.	Fr: Coffin his claim
Aug. 17	transferred N	Certificates respecting renewal of
	transferred	Fr. Cazeau, on his claims
	transferred	Fowler and Elliot's claim for goods furnished troops
	transferred	G. Joy . . . . value of funded debts
Oct 30	transferred	Con: Freeman
	transferred	Marbois letters on various subjects
	d <sup>o</sup>	Note respect <sup>s</sup> Int. due to french subjects
	d <sup>o</sup>	respect <sup>s</sup> <i>Du Coudray</i>
	transferred	Otto's mem. on loans by France
Aug 6	transferred	R. J. Meigs, representative of capt Greene
Oct 21	transferred O	Massachusetts motion respect <sup>s</sup> Indents

<i>Read</i>	<i>Passed</i>	<i>Board of Treasury</i>
Nov 3	transferred N	Pennsylvania's motion respect* 78000 dollars
Sept 1	transferred N	E Ransom claim* reward for prosecut* counterfeiter
July 26	transferred	J Rubsamen
Sept 18	transferred	J Sumner
April 17	transferred	W. Shattuck and T. Church.
	transferred O	W Thompson, touching courts of Connecticut
	transferred	J. Turnbull
Oct 21	transferred N	A Whipple
<i>Ditto Obsolete or Negative</i>		
Aug. 22	transferred	J Abbot
May 25	transferred	P. Bennet
Aug 1	April 19 <sup>th</sup> , 1787	D Campbell, referred to the board of treasury
May 19	transferred	T. Chase
April 20	transferred	W. Clarke
		W. Calbreath
June 15	transferred	Commissioners for adjust* claims of States and individuals
March 22	transferred	I and I. Carpenter
	transferred	Du Calvet
June 7	transferred	Don M <sup>e</sup> Donald
March 22	transferred	S. Francis
	transferred	D Gray
July 26	transferred	R. Gridley
May 19	transferred	R. Hart
April 24	transferred	Henry, M <sup>c</sup> Clellan and Henry
May 22	transferred	M. Hazen and U. Hay
May 1	transferred	S. Keep
	transferred	Lewis Vandizant and Tudor
April 25	transferred	A Mc Farlan
March 7	transferred	D. Phipps
March 9	transferred	New York touching com <sup>r</sup> to receive claims
March 7	transferred	Money of 18 March 1780
May 10	transferred	D. Reynolds
July 26	transferred	Capt. Smart
May 30	transferred	Vaningen
March 22	April 25	J. Warren referred back to the board of treas <sup>r</sup> to report.
<i>Foreign Affairs</i>		
5 Ap <sup>l</sup> 1786	transferred	Barbary States, relative to affairs
5 Jan <sup>y</sup> 1786	transferred	vessels taken by Algerines

<i>Read</i>	<i>Passed</i>	<i>Foreign Affairs</i>
8 May 1786	filed	M Adam's letter of Dec <sup>r</sup> 1785 answer to
4 March 1786	transferred	ditto 22 June 1784, dra <sup>t</sup> of letter to Sovereigns of Europe
	filed	ditto 11 Nov 1785
8 May 1786	March 21, 1787	ditto March 4, 1786, respect <sup>s</sup> definitive treaty
	filed	G Britain on the treaty of Commerce to be offered to
	transferred	D Beveridge on memorial of
24 Sept 1786	transferred	East Boundary encroachments on
31 Oct 1785	transferred	Consuls, fees, jurisdiction and duties of
20 Sept 1785	transferred	number of
13 Oct 1785	transferred	ditto
1 May 1785	filed	Commerce a plan of treaties of
29 March 1786	transferred	Convention between Am. and french post Offices
11 Sept 1786	transferred	Encargado de Negocios of Spain letters of 30 June 1786 reports on
12 Oct 1785	transferred	Doct B Franklin's letter of 19 Sept 1785
25 Aug 1785	transferred O	Heinckin's memorial respect <sup>s</sup> Ship Minerva
22 March 86	transferred	Instructions to Minister at Court of Vers and London
11 Oct 1786	transferred O	T. Jefferson's letter of 11 Oct 1785
7 Oct 1785	transferred	Fr. Merchants complaints ag laws of N H and Mass.
23 Aug. 1786	transferred	Minister of U Netherlands' note touch <sup>s</sup> creditors of D. L. Lande
1 Nov 1785	d <sup>o</sup>	ditto touch <sup>s</sup> Passports
7 Aug 1786	{filed	} O'Donnel's letter sent back to Office foreign Affairs
	Nov. 6 1787	
7 Sept 1786	transferred O	Phelon's letter
11 July 1785	transferred O	Pollock O.
1 May 1786	transferred N	Ross John
8 March 86	transferred O	Temple J. letter 25 feb 1786
2 Nov 1785	transferred O	Washington G. equestrian statue

<i>Read</i>	<i>Passed</i>	<i>Secretary at War</i>
4 May 1786	transferred N	De Nys' proposal for raising a regiment
23 Aug 1785	transferred	Hay: col Udney's memorial
27 Dec 1785	transferred	Indians, Officers and Soldiers not to trade with
27 Dec 1785	transferred. O.	. . . . petition of
12 June 1786	transferred O	Lindsey, Eleazer's mem
21 July 1786	transferred N	Malcom, col W.'s mem
29 Sept 1785	transferred	M Lane James' petition
12 April 1786	transferred	Stores on the Ohio
25 May 1785	transferred O	Sayre's project
1 Aug 1786	April 24	Stores unserviceable for sale of; <i>committed</i> .
	transfer <sup>d</sup> O	Secretary at War's conduct to preserve
12 Feb <sup>y</sup> 1787	filed	J. P. Schott, Sec <sup>y</sup> at war negatived
	filed	W <sup>m</sup> Tap      d <sup>o</sup> d <sup>o</sup>
	March 22, 1787	J. Giles      d <sup>o</sup> negatived



BIBLIOGRAPHICAL NOTES

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## BIBLIOGRAPHICAL NOTES <sup>1</sup>

1787

February 3.

Draft of Instructions to Superintendent of Indian Affairs.

568. Instructions to / Superintendent of Indian  
Affai[r]s for the Department./ Sir,/

F<sup>o</sup> Broadside.

Copies are in the Library of Congress, *Papers of the Continental Congress*, No. 30, p. 315 and Broadside. They measure 21 x 33.5 cm. An edition of 60 copies was printed, at a cost of 18 shillings. The entry in Dunlap's account is dated February 7. Ford, No. 455; Evans, No. 20771.

March 23.

Resolutions on Reduction of the Civil List.

569. By the United States in Congress/ assembled,/ March 23, 1787./  
On the report of a committee appointed to consider the reductions  
ne-/ cessary to be made in the civil list department. F<sup>o</sup> [2 pp.]

<sup>1</sup> The list of Continental Congress imprints is derived from the *Register of Accounts, Papers of the Continental Congress*, No. 146. In this *Register* are entered the quarterly accounts of John Dunlap, who appears as the only printer employed by Congress in 1787. Dunlap, however, did not have a press in New York and it is obvious that reports and resolutions, which were ordered printed and needed for immediate use, could not be sent to Philadelphia for printing. In the case of the Congress imprint of the new Constitution in September 1787, it is clear that the imprint came from the press of John McLean, notwithstanding the fact that the accounts show that Dunlap was paid for this printing. The only obvious explanation is that Dunlap as printer to Congress prior to the removal to New York continued in this capacity and arranged for other printers in New York to do the work, while he presented the corresponding bills. As a consequence of this statement the Congress imprints are not here ascribed to the press of Dunlap as has been customary heretofore. The numbers in Paul L. Ford, *Bibliography of the Official Publications of the Continental Congress* (1890) and *Bibliography of the Constitution of the United States* (1896) and Charles Evans, *American Bibliography*, are indicated.

Copies are in the John Carter Brown Library, signed by Charles Thomson, and New York Public Library. They measure 20.2 x 33 cm. An edition of 100 copies was printed, at a cost of £1. The entry in Dunlap's account is under the date of March 30. Evans, No. 20757.

March —.

Rules and Articles for the Government of the Troops of the United States of May 31, 1786.

570. Whereas crimes may be committed by officers and soldiers.

An edition of 150 copies was printed at a cost of £2-4. The entry in Dunlap's account follows that of March 30. The following certificate, in *Papers of the Continental Congress*, No. 151, p. 254½, explains this imprint: "This certifies that M<sup>r</sup> Swain, by my direction, printed for the use of the public, one hundred and fifty copies of the rules and articles for the government of the troops in the service of the United States, as established by Congress 31<sup>st</sup> May 1786. Given at the War Office the 31<sup>st</sup> March 1787. (s) H KNOX"

April 6.

Report on a Circular Letter to the States.

571. Office for Foreign Affairs, 6th April, 1787./ The Secretary of the United States for the department of foreign affairs, in pursuance of the order of Congress directing / F<sup>o</sup> [2 pp.]

Copies are in the Library of Congress, *Papers of the Continental Congress*, Broad-sides. They measure 21.5 x 36 cm. An edition of 20 copies was printed at a cost of £ 1-10. Evans, No. 20775.

April 13.

Circular Letter to the States.

572. United States in Congress assem-/bled,/ April 13, 1787. / The following letter was unanimously agreed to. / Sir, / F<sup>o</sup>. [3 pp.]

Copies are in the Library of Congress, *Papers of the Continental Congress*, No. 49, pp. 329-331 and Broad-sides, signed by Charles Thomson. They measure 20 x 31.8 cm. An edition of 60 copies was printed at a cost of £ 1-12, and apparently a second edition of 100 copies at a cost of £ 2. Ford, No. 437; Evans, No. 20776.

April 16.

Proposed Ordinance for Settling Accounts.

573. The Board of Treasury to whom was referred a motion for repealing the ordi-/ nance of the 13th of October last, and that the Board be directed to report an ordi-/

Large F<sup>o</sup>. Broadside.

Copies are in the Library of Congress, *Papers of the Continental Congress*, No. 59, III, p. 451 and Broad­sides. They measure 32.5 x 41.8 cm. The first copy has manuscript changes to bring the text into agreement with the ordinance as passed. The report was read in Congress on April 18. An edition of 60 copies was printed at a cost of £ 1-6. Ford No. 438; Evans, No. 20755.

April 20.

Report of Secretary at War Relative to Post St. Vincents.

574. The Secretary of the United States for the department of war to whom was referred his letter to Congress of the 16 of April

An edition of 60 copies was printed at a cost of 16 shillings.

April 21.

Resolution on Copper Coinage.

575. By the United States in Congress/assembled,/April 21st, 1787./  
On the report of a committee to whom was referred a report of the/  
board of treasury on certain proposals for coining copper,/

F.<sup>o</sup> Broadside

Copies are in the Library of Congress, *Papers of the Continental Congress*, Broad­sides, signed by Charles Thomson. They measure 20 x 31.5 cm. An edition of 60 copies was printed, at a cost of 18 shillings. Evans, No. 20758.

April 21.

Resolutions for Selling Lands in Western Territory.

576. By the United States in Congress assembled. April 21, 1787.  
That after the Secretary at War shall have drawn the proportionate  
quantity of lands

An edition of 60 copies was printed at a cost of £1. Ford No. 439:  
Evans, No. 20759.

April 25.

Report of Committee on Disposing of Western Territory.

577. The committee, consisting of Mr. Carrington, Mr. Varnum,  
Mr. Clarke, Mr. King, and Mr./Hawkins, to whom was referred a  
motion of Mr. Carrington for revising the ordinance for sur-/veying  
and selling the western territory,—report as follows:/ F.<sup>o</sup> Broadside.

A copy is in the Library of Congress, *Papers of the Continental Congress*,  
No. 30, p. 129. It measures 22.2 x 40.8 cm. An edition of 60 copies was  
printed at a cost of 18 shillings. Ford, No. 441; Evans, No. 20766.

May —.

Blank for Statement of Representation in Congress.

578. A State of the Representation in Congress for the month  
of/ 178 pursuant to the Act of 17th August, 1785./  
F<sup>o</sup> Broadside.

Copies are in the Library of Congress, *Papers of the Continental Congress*,  
Miscellany. They are filled out for April and May, 1787. They measure  
20.3 x 33 cm. An edition of 100 copies was printed at a cost of £ 1-10.  
Evans, No. 20787.

May 3.

Resolution Repealing the Requisition of October 21, 1786.

579. By the United States in Congress as-/sembled./ May 3, 1787./  
On a report of the Board of Treasury to whom was referred a motion  
for re-/pealing the special requisition. F<sup>o</sup> Broadside

A copy is in the John Carter Brown Library, signed by Charles Thomson.  
It measures 19.5 x 32.3 cm. An edition of 60 copies was printed at a cost of  
16 shillings. Evans, No. 20760.

May 7.

Ordinance for Settling Accounts.

580. By the United States in Congress as-/sembled,/May, 7, 1787./  
An Ordinance for settling the Accounts between the United States,/  
and Individual States./ F<sup>o</sup> Broadside

A copy is in the Library of Congress, *Papers of the Continental Congress*,  
Broadside, signed by Charles Thomson. It measures 21 x 34 cm. An  
edition of 100 copies was printed at a cost of £1-6. Evans, No. 20761.

May 9.

Proposed Ordinance for Western Territory.

581. An Ordinance for the government of the Western Territory./  
It is hereby ordained by the United States in Congress assembled,  
that there shall be/ F.<sup>o</sup> [2 pp.]

Copies are in the Library of Congress, *Papers of the Continental Congress*,  
Broadside. They measure 21 x 33.2 cm. This is the imprint ordered by  
Congress on May 9. An edition of 60 copies was printed at a cost of 18  
shillings. Evans No. 20778.

July 8.

Proposed Ordinance for Territory Northwest of the Ohio.

582. An Ordinance for the Government of the/Territory of the  
United States, North-West/of the River Ohio./ Be it ordained by  
the United States in Congress assembled, That the said territory, for  
the/ F<sup>o</sup> [2 pp.]

A copy is in the Library of Congress, *Papers of the Continental Congress*, Broadsides, with manuscript changes and with a copy of the sixth article in the writing of Nathan Dane attached. It measures 21.5 x 33.5. An edition of 60 copies was printed at a cost of £ 1-10. The entry in Dunlap's account is under July 8.

July 10.

Report of Committee on Memorial of Parsons.

583. The Committee consisting of \_\_\_\_\_ to whom was/referred the Memorial of Samuel Holden Parsons, Esquire, report as follows./ Resolved, That the treasury board be authorized and empowered/  
F<sup>o</sup> Broadside

Copies are in the Library of Congress, *Papers of the Continental Congress*, No. 19, V, pp. 31 and 32, and Broadsides. They measure 21.5 x 33.4 cm. The second copy has manuscript amendments in the writing of Charles Thomson. An edition of 60 copies was printed at a cost of 16 shillings. The entry in Dunlap's account follows July 13. Ford, No. 443; Evans, No. 20765.

July 13.

Ordinance of 1787.

584. An Ordinance for the Government of the Territo-ry of the United States, North-West of the River/Ohio./Be it ordained by the United States in Congress assembled, That the said territory, for the purposes of tempo-/  
F<sup>o</sup> [2 pp.]

Copies are in the Library of Congress, *Papers of the Continental Congress*, No. 59, I, pp. 229-230 and Broadsides, signed by Charles Thomson. They measure 21.5 x 32.7. One copy is annotated in a later hand to show the changes made during debate. An edition of 100 copies was printed at a cost of £1-15. The entry in Dunlap's account is dated July 13. Ford, No. 444; Evans, No. 20779.

July 18.

Treaty with Morocco.

585. The United States of America, in/Congress assembled,/To All who shall see these Presents, Greeting./Whereas the United States of/  
F<sup>o</sup> [3 pp.]

Copies are in the Library of Congress, *Papers of the Continental Congress*, Broadsides, signed by Charles Thomson. They measure 20.1 x 32.7 cm. An edition of 100 copies was printed, in two columns, at a cost of £2-4. The entry in Dunlap's account is dated July 26. Ford, No. 445; Evans, No. 20789.

July 20.

Report of Secretary at War on Indian Affairs in the Northern Department.

586. The Secretary of the United States for the department of War, to whom were referred certain Papers/transmitted by the Superintendent of Indian Affairs for the Northern department, Reports, F<sup>o</sup> Broadside.

A copy is in the Library of Congress, *Papers of the Continental Congress*, No. 27, p. 346. It measures 22.2 x 34.4 cm. An edition of 60 copies was printed at a cost of £1-4. The entry in Dunlap's account follows July 8. Ford, No. 446; Evans, No. 20786.

July 31.

Report of Committee on Indian Affairs in the Southern Department.

587. The Committee consisting of Mr. Kearney, Mr. Carrington, Mr. Bingham, Mr. Smith, and Mr. Dane, to whom was referred the Report of the Secretary at War, and sundry Papers relative to Indian Affairs in the Southern Department; and also a motion of the Delegates from the State of Georgia, Report, F<sup>o</sup> [2 pp.]

Copies are in the Library of Congress, *Papers of the Continental Congress*, No. 30, pp. 311-312, No. 56, pp. 445-446 and Broadsides. They measure 20.3 x 33.1 cm. An edition of 60 copies was printed at a cost of £1-10. The entry in Dunlap's account is dated August 3. Ford, No. 447; Evans, No. 20770.

August 6.

Proposed Constitution, first imprint.

588. We the People of the States of New Hampshire, Massachusetts, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Penn-sylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia, do ordain, declare and establish the following Constitution for the Government of Ourselves and our Posterity. F<sup>o</sup> [7 pp.] (printed on one side only)

Copies, which belonged to James Madison, William Samuel Johnson, and David Brearley, are in the Library of Congress. They measure 26.9 x 40.6 cm. This was the report of the committee of five or of detail which was brought in August 6. This is the first Convention imprint of the proposed Constitution and was printed by Dunlap and Claypoole. Ford, *Bid. Const.*, No. 8; Evans, No. 20815.



August 9.

Report of Committee on Indian Affairs in the Northern Department.

589. The committee, consisting of Mr. Dane, Mr. Hawkins, Mr. Kean, Mr. Irvine, and Mr. Carrington, to whom were referred the Report of the Secretary at War, and sundry Papers relative to Indian Affairs in the Northern Department;—Report in Part: F<sup>o</sup> Broadside.

A copy is in the Library of Congress, *Papers of the Continental Congress*, No. 27, p. 345. It measures 21.1 x 32 cm. An edition of 60 copies was printed at a cost of 18 shillings. The entry in Dunlap's account follows August 13. Ford, No. 454; Evans, No. 20768.

August 9.

Report of Committee on the Civil Department.

590. The Committee, consisting of Mr. Dane, Mr. Clark, Mr. Var-num, Mr. Lee, and Mr. Grayson, to whom it was referred to consider what Officers in the Civil Department are become unnecessary; and to whom also was referred a Motion of Mr. Dane, respecting the Department of the Treasury—report the following Resolutions. Resolved, F<sup>o</sup> Broadside.

A copy is in the Library of Congress, *Papers of the Continental Congress*, No. 26, p. 659. It measures 19.7 x 29.5 cm. It bears manuscript changes to bring it into conformity with the report as passed. An edition of 60 copies was printed at a cost of 10 shillings. The entry in Dunlap's account is dated August 13. Ford, No. 451; Evans, No. 20767.

September 13.

Proposed Constitution: Report of Committee on Style and Arrangement.

591. We, the People of the United States, in order to form a more perfect union, to establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

F<sup>o</sup> 4 pp. (printed on one side only).

Copies which belonged to David Brearley, William Samuel Johnson, James Madison, and George Washington are in the Library of Congress. They measure 26 x 42.5 cm. These copies bear manuscript changes by the possessors which were made on September 13 to 15 and 17. This report was ordered printed September 12 and was brought in to the Convention September 13. The edition was printed by Dunlap and Claypoole, the type form being the same as that used in the final Convention imprint of the Constitution (No. 592), with printer's corrections. Ford, *Bib. Const.*, No. 9; Evans, No. 20816.

September 17.

Proposed Constitution: Final Report of the Convention.

592. We, the People of the United States, in order to form/a more perfect union, establish justice, insure domestic tranquility, provide/for the common defence, promote the general welfare, and secure the blessings/of liberty to ourselves and our posterity, do ordain and establish this Constitution for the/United States of America./[Colophon.] Printed by Dunlap and Claypoole. F<sup>o</sup> 6 pp.

This is the official edition of the Convention, consisting of the Constitution, the resolution of the Convention and the letter of Washington to the President of Congress, transmitting the report. Copies of this imprint, which belonged to James Madison and Edmund Pendleton, are in the Library of Congress. They measure 26 x 40.5 cm. The edition of 500 copies was printed after the signing of the engrossed copies of the documents, by Dunlap and Claypoole. The type forms of the Constitution employed for No. 591, with printer's corrections for the changes made from September 13 to 17 inclusive, were used for this printing. This imprint has an error in line seven of Article V, where it reads "seven" instead of "eight." The type forms of this imprint, with the preamble reset in large type and the leads reduced in certain places, were used by Dunlap and Claypoole to print the edition of September 19 of the *Pennsylvania Packet and Advertiser*, No. 2690. The error noted above in the official imprint was corrected in the *Packet*. Ford, *Bib. Const.*, No. 10; Evans, No. 20818.

September 28.

Report of Convention on Form of Government.

593. We the People of the United States, in order to/form a more perfect Union, establish Justice,/insure domestic Tranquility, provide for the/common Defence, promote the general Wel-/fare, and secure the Blessings of Liberty to/ourselves and our Posterity, do ordain and/establish this Constitution for the United/States of America./ F<sup>o</sup> [4 pp.]

This is the official edition of the Congress, signed by Charles Thomson and sent to the States for ratification. A copy is in the Department of State, *Papers of the Continental Congress*, No. 122, wafered between pp. 98-99. This imprint comprises the Constitution, the resolution of the Convention, Washington's letter and the Resolve of Congress of September 28, 1787. It is printed in two columns, apparently in the shop of J. M<sup>c</sup>Lean, since the report of the Convention, appears to be printed from the type forms used by M<sup>c</sup>Lean in the supplement to the *Independent Journal* of September 22, with corrections of errors and some resetting to save space in order to include the Report and the Resolve on four pages. An edition of 100 copies of the new Constitution was printed for Congress at a cost of £3-10. The entry appears in Dunlap's account under the date of September 29. What was

apparently a second edition of 100 copies of the new Constitution was printed at a cost of £1-4. The entry for this printing is dated October 3 in Dunlap's account. Ford, No. 450; Evans, No. 20817.

September 28.

**Report of Board of Treasury on Requisition.**

594. The Board of Treasury, to whom "it was/referred to report a Requisition for the current year, in-/cluding one year's Interest on the Foreign Debt, and such part/of the Principal as may become due in the ensuing year; and/providing for the Payment of one year's Interest on the Do-/mestic Debt, in a mode most convenient to the States, and/advantageous to the Union."/ 4° 14 pp.

A copy is in the Library of Congress, *Papers of the Continental Congress*, No. 139, pp. 587-598. It measures 16.2 x 21.5 cm. An edition of 100 copies was printed at a cost of £4-16. The entry in Dunlap's account follows after that of October 3. Ford, No. 449; Evans, No. 20756.

October 3.

**Resolution on Raising Troops.**

595. By the United States in Congress assembled. October 3, 1787. Whereas the time for which the greater part of the troops on the frontiers are engaged will expire

An edition of 100 copies was printed at a cost of 18 shillings. The entry in Dunlap's account follows after that of October 3. Ford, No. 452; Evans, No. 20762.

October 11.

**Resolve on Requisition of 1787.**

596. By the United States in Con-/ gress assembled./ October 11, 1787./ The Committee to whom was referred a Report of the Board of Treasury and a Motion/of Mr. Kean, respecting the Requisition for 1787, having reported, "That/ F° [2 pp.]

Copies are in the Library of Congress, *Papers of the Continental Congress*, Broad-sides, signed by Charles Thomson. They measure 20 x 32.2 cm. An edition of 100 copies was printed at a cost of £1-10. The entry in Dunlap's account follows that of October 3. Ford, No. 453; Evans, No. 20763.

1786-1787.

**Journals of the Continental Congress.**

597. Journal/of the/United States/In Congress Assembled:/con-taining/The Proceedings/from/The Sixth Day of November, 1786,/ to/The Fifth Day of November, 1787./ vol. XII./Published by order of Congress./M,DCC,LXXXVII./ 8° pp. 255, [9].

Copies of this official edition of the *Journals* are in the Library of Congress. This volume does not bear the name of the printer, but it is uniform with those for 1785-1786 and 1787-1788, which were from the press of John Dunlap. The entries in the accounts of John Dunlap for the printing of this volume of the *Journals* are as follows:

1787	
Second	
Quarter	4½ sheets of the Journals from A to I inclusive @ 4 pounds----- £18-
	Paper for the above 6 Reams @ 17/----- 5- 2-
Third	
Quarter	To printing 4½ Sheets of Journals of Congress from K to S inclusive @ £4----- £18-
	To 6 Reams paper for the above @ 18/----- 5- 8
Dec. 31.	To printing 7½ sheets Journals of Congress from Sig. T to Hh inclusive @ 80/----- 30- 0- 0
	To paper for the above 10 Reams @ 17/----- 8-10

The account of Robert Hodge rendered December 31, 1787, includes the following items for binding of the *Journals* for 1786-1787:

50 ditto [binding in blue boards] 1787 @ 10d-----	£2- 1- 8
To bind and lettering 1 Vol for 1787-----	3- 6
To Ditto 100 ditto in blue-----	4- 3- 4
To Ditto 100 ditto-----	4- 3- 4
244 Journals for 1787-----	10- 3- 4

Ford, No. 456; Evans, No. 20772.

In Dunlap's account for the second quarter there is this additional entry:  
To printing Index to Vol. 10<sup>th</sup>, 2 sheets and finding paper. £9-12-

1781-1782.

*Journals of the Continental Congress* [reprint].

598. *Journals of Congress, and of the United States in Congress Assembled, For the Year 1781.* Published by Order of Congress. / Volume VII. / New York: / Printed by John Patterson. / M, DCC, LXXX-VII.

8° pp. 522, [17], lxxix

A copy of this reprint of the *Journals* is in the Library of Congress. It covers the proceedings from January 1, 1781, to November 2, 1782. An edition of 600 copies, consisting of 39½ sheets, was printed by Patterson at a cost of £193, for which a bill was rendered on October 1, 1787. See Ford, No. 322.

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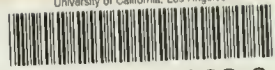
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