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JOURNALS OF THE
CONTINENTAL CONGRESS
1774-1789

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MONDAY, AUGUST 12, 1782 1192614

In pursuance of the resolution of the sixteenth day of July last, the agents for the Commonwealth of Pennsylvania and for Connecticut made report as follows:

To the honorable the Congress of the United States of America:

We the underwritten agents on the part of the Commonwealth of Pennsylvania, and of the State of Connecticut, do humbly certify, that in pursuance of the resolution of Congress bearing date the sixteenth day of July last, we have met and conferred together, and by joint consent have appointed the following gentlemen as commissioners to constitute a court for hearing and determining the matter in question between the said states, that is to say, the Hon. William Whipple, esq. of New Hampshire; the Hon. Major General Nathaniel Greene, of Rhode Island; the Hon. David Brearley and William Churchill Houston, esqrs. of New Jersey; the Hon. Cyrus Griffin and Joseph Jones, esqrs. of Virginia; and the Hon. John Rutledge, esq. of South Carolina, any five or more of whom we have agreed shall constitute a court, and have authority to proceed and determine the matter and difference between the said states. At the same time we beg leave most humbly to request that Congress will be pleased to determine how much shall be allowed to the said commissioners as a compensation for their services, and also in what manner and by whom they shall be paid.

Dated the 8th day of August, in the year of our Lord one thousand seven hundred and eighty-two, and in the 7th year of our independence.

Signed,	WILLIAM BRADFORD, JUN.	} Agents for Pennsylvania.
	JOSEPH REED,	
	JONATHAN D. SARGEANT,	
	H. OSBORNE,	
	ELIPHALET DYER,	} Agents for Connecticut. ¹
	JESSE ROOT,	

On the report of a committee, consisting of Mr. [John] Lowell, Mr. [Ezekiel] Cornell, and Mr. [James] Madison, to

¹ According to *Papers of the Continental Congress*, Committee Book, No. 186, this joint report of the agents for Pennsylvania and Connecticut was referred, on this day, to Mr. [John Morin] Scott, Mr. [James] Madison, and Mr. [John] Witherspoon.

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whom was referred a letter of the 9th of July from the Commander in Chief, with sundry papers enclosed:

Resolved, That Congress approve the conduct of General Washington in refusing to enter into any discussion with General Carleton on the subject of the treason laws passed by the several states.

Resolved, That the states of America which compose the union, being sovereign and independent, the laws respectively passed by them for their internal government and the punishment of their offending citizens, cannot be submitted to the discussion of a foreign power, much less of an enemy.

2. That as soon as due provision shall be made on the part of the enemy for settling and discharging the balance due to the U. S. for the past maintenance of Prisoners, and solid arrangements made to provide for them in future, a general exchange of prisoners will be concurred in on the part of the U. States.

3. That a copy of the two last resolutions be transmitted by Gen^l Washington to Gen^l Carleton.

~~Report of the Committee to whom was recommitted the report on the letter of General Washington submit the following resolutions:~~

~~That Congress have always been and still are ready to concur in a cartel for an exchange of prisoners on equal and just principles and approve of the measures taken for that purpose by the Commander in Chief.~~

~~That a copy of this resolution be transmitted by Gen^l. W. to the British Commander in Chief in New York.¹~~

On the report of a committee, consisting of Mr. [Arthur] Lee, Mr. [John] Witherspoon, and Mr. [John] Rutledge, to whom was referred a letter of the 5, from General Washington, Congress came to the following resolutions:

The Committee to whom was referred the letter from Gen^l Washington of August 5, 1782, enclosing the copy of a letter from Sir Guy Carleton and Admiral Digby dated August 2nd and the reports of two committees together with sundry letters relative to a partial exchange

¹ This report, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 19, VI, folio 399.

of prisoners, having considered the same, beg leave to submit the following resolutions:

Whereas from the late publications the people throughout the United States may be induced to believe that Congress have received authentic communications upon the subject of an approaching peace:

Resolved, That the letter of August the 2d, 1782, from ~~their Excellencies~~ Sir Guy Carleton and Admiral Digby, to ~~his Excellency~~ the Commander in Chief, be made public.

Resolved, That Congress consider the above letter as mere matter of information, inexplicit as to the nature and extent of the independency directed to be proposed by the British plenipotentiary; and as Congress have received no information on this subject from their ministers for negotiating a peace, therefore no public measure can or ought to be taken upon it in its present form.

Resolved, That it be, and it is hereby, recommended to the several states in the union, not to remit of their exertions for carrying on the war with vigor, as the only effectual means of securing the settlement of a safe and honorable peace.

Resolved, That the Commander in Chief be directed to propose to his Britannic Majesty's commanders at New York, the appointment of commissioners to settle forthwith a general cartel for the exchange of prisoners, ~~as the most effectual measure for relieving the citizens and subjects of the two powers from the miseries of captivity~~ taking care that the liquidation of accounts and settlement of the balance due for the maintenance of prisoners, be provided for therein.

~~That the Commander in Chief be authorised to empower the commissioner or commissioners he shall appoint to settle a general cartel to release the right Honorable Lieut. General Earl Cornwallis from~~

~~his parole in return for a similar indulgence granted by his Britannic Majesty to the Honble Mr. Laurens.¹~~

[TUESDAY, AUGUST 13, 1782.]

The committee on the letter of Superintendant of Finance of 23 July report,

That all the transactions included in the late Commissary General Joseph Trumbul's acct. referred to them, were at a time prior to the commencement of the date of any depreciation, as marked in the table published by Congress—but that an actual depreciation had then begun as appears by the advanced prices of many of the latter purchases.

That the rates of the commissions on the expenditures were settled by a resolution of Congress *posterior* to such date, and when the depreciation was considerable—hence the question, whether the commissions should be valued as specie or be estimated by the depreciation at the period of said resolution.

~~Your committee laying it down as a principle that the value of the commissions earned should be as the expenditures from which they arise, observe, that neither of the above modes of determination will be consistent.~~

Your Committee are of opinion that in this case either of the modes of settlement would be erroneous, they laying it down as a principle that the value of the commissions earned should be as the expenditures from which they arise—in conformity to this principle they offer the following resolution,

That be directed in the settlement of the accounts of the late Commissary General Joseph Trumbul, to assume some capital article or articles in his purchases as a standard and by the advance at the several periods beyond the current specie prices, to discover the actual depreciation in his expenditures; and that he thereby

¹ This report, in the writing of Arthur Lee, is in the *Papers of the Continental Congress*, No. 19, VI, folio 401. The preamble is on folio 413.

On this date, according to the indorsement, a letter of July 11, from Major General Greene, was read and referred to Mr. [Joseph] Montgomery, Mr. [Ezekiel] Cornell and Mr. [Theodorick] Bland. It is in No. 155, II, folio 473.

On this, or an approximate date, was read a letter of July 13, from Major General Greene. It is in No. 155, II, folio 485.

Also, on this date, as the indorsement indicates, a letter from Major General Greene, dated July 14, was read. It is on folio 499.

adjust the true value and amount of the commissions to be allowed the said Commissary General on his expenditures.

And that by the same rule he ascertain the true value of those sums he applied to his own use out of the several issues, in order that a just ballance may be struck.¹

WEDNESDAY, AUGUST 14, 1782

The committee, consisting of Mr. [Arthur] Lee, Mr. [John] Rutledge, and Mr. [Ezekiel] Cornell, to whom was referred a letter of the 5, from Major General Gates, brought in a report; Whereupon,

The Committee to whom the letter from Major General Gates dated August 5th 1782 was referred, have had the same under consideration and submit the following resolution—

Whereas Congress by a resolution of the 5th day of October, 1780, directed the Commander in Chief to order a Court of Enquiry to be held on the conduct of Major General Gates; and General Greene having stated that the situation of the Southern Army rendered such a Court of Enquiry during the campaign impracticable, and having also written “That he had opportunity of viewing the ground where Gen^l Gates fought, as well as the disposition and order of battle, from all which he was more fully confirmed in his former sentiments, that General Gates was unfortunate, but not blamable, and that he was confident from all the enquiries he has since made General Gates will acquit himself with honor” it is therefore

Resolved, that the said Resolution of the 5th Day of October 1780 be revoked, and that Major General Gates do return to his duty ~~in the main army~~ as the Commander in Chief shall direct.²

On motion of Mr. [John] Rutledge, seconded by Mr. [Ezekiel] Cornell,

¹ This is indorsed: 1st report—Report of Mr. [George] Clymer, Mr. [Jonathan] Jackson, Mr. [Edward] Telfair. It was recommitted to confer with the Superintendent of Finance. It is in the writing of George Clymer and is in the *Papers of the Continental Congress* No. 19, VI, folio 63. Committee Book, No. 186, shows that it was delivered August 13 and that another report was made September 16. See *post* October 1.

² This report, in the writing of Arthur Lee, is in the *Papers of the Continental Congress*, No. 19, II, folio 403. General Gates's letter, dated Philadelphia, August 5, is in No. 154, II, folio 369.

Resolved, That the resolution of the 5 day of October, 1780, directing a court of enquiry on the conduct of Major General Gates, be repealed; and that he take command in the main army, as the Commander in Chief shall direct.

On the question to agree to this, the yeas and nays being required by Mr. [Abraham] Clark,

<i>Massachusetts</i> ,			<i>Delaware</i> ,		
Mr. Jackson,	ay	} *	Mr. McKean,	ay	} ay
<i>Rhode Island</i> ,			Wharton,	ay	
Mr. Cornell,	ay	} ay	<i>Maryland</i> ,		
Howell,	ay		Mr. Hanson,	ay	} *
<i>Connecticut</i> ,			<i>Virginia</i> ,		
Mr. Root,	ay	} ay	Mr. Madison,	ay	} ay
Huntington,	ay		Bland,	no	
Dyer,	ay		Lee,	ay	
<i>New York</i> ,			<i>North Carolina</i> ,		
Mr. Duane,	ay	} ay	Mr. Williamson,	ay	} ay
Scott,	ay		Blount,	ay	
<i>New Jersey</i> ,			<i>South Carolina</i> ,		
Mr. Clark,	ay	} ay	Mr. Rutledge,	ay	} ay
Condict,	no		Ramsay,	ay	
Witherspoon,	ay		Middleton,	ay	
<i>Pennsylvania</i> ,			Gervais,	ay	
Mr. Montgomery,	ay	} ay	<i>Georgia</i> ,		
Smith,	no		Mr. Telfair,	ay	} ay
Clymer,	ay		Jones,	ay	
		Few,	ay		

So it was resolved in the affirmative.

The Committee [Mr. John Morin Scott, Mr. James Madison, Mr. John Witherspoon] to whom was referred the joint application of the Agents for the States of Connecticut and Pennsylvania notifying to Congress their appointment of Commissioners for hearing and determining the matter in Question between the said States, and requesting Congress to determine how much shall be allowed to the said Commissioners for their services and in what manner, and by whom they shall be paid, Report that they have duly considered such parts of the Articles of Confederation of these United States as in any wise respect the subject matter of the said notification. That in the opinion of the

Committee no award of costs can by the law of the land be made by any Judicatory in any cause whatsoever unless provision be made for the purpose by some express and positive law.

That the Articles of Confederation are entirely silent as well with respect to the allowance to the Commiss^{rs} for their services in the present case as to the parties by whom, and the manner in which the same shall be paid. Which allowance as well as all other necessary expences, tho' they would properly, between private parties, be considered as costs of suit, yet the award of costs, as it implies not only a recompense for injury to the gaining party, but also a penalty on the losing party for litigiousness, would in the opinion of the Committee be inconsistent with the dignity of Sovereign and Independent States.

That the Committee are of opinion nevertheless that the appointment of the Commissioners having been made by voluntary act of the parties in the mode prescribed by the Articles of Confederation, the Commissioners may lawfully proceed in the execution of their trust at the expence of one of the parties, if the other party on demand made should neglect or refuse to make the necessary provision on their part for such expence.

That the usual allowance to Commissioners in similar cases, before the declaration of the Independence of these United States, was a guinea per day, and their expences, which allowance and expence were equally borne and defrayed by the parties.

That tho' Congress cannot authoritatively interpose in the present case any farther than to order the said notification to be entered on their Journals; yet as the parties have requested them to determine what allowance shall be made to the Commissioners appointed by them and in what manner and by whom the same shall be paid, the Committee beg leave to report the following Resolution to wit:

~~Resolved, That the written Notification subscribed by the respective agents of the states of Connecticut and Pennsylvania of the appointment of Commissioners to constitute a court for hearing and determining the matter in question between the said states, be entered at length on the Journals of Congress, to serve as perpetual evidence of the said appointment.~~

Resolved, That it be and it is hereby recommended to each of the said contending parties to make suitable provision for the payment of one moiety of per day and the one moiety of the reasonable expences of each Commissioner, who shall undertake the execution

of the trust, for every day he shall attend that service, and from time to time as the same shall by him be required.¹

Ordered, That a letter, of 13th, from William Geddes, desiring leave of absence for three or four weeks to visit his family, be referred to the Superintendent of Finance.²

THURSDAY, AUGUST 15, 1782

The proceedings and sentence of a general court-martial on the trial of Major General McDougall, having been read:

Resolved, That Congress approve the sentence of the said court.

Ordered, That a letter of 14 from John Mitchell, late deputy quartermaster general, complaining that a suit has been brought against him for articles purchased for the use of the army, be sent to the legislature of the State of Pennsylvania, to make provision as required by the requisition of the 19 of March last.

The Committee [Mr. James Madison, Mr. James Duane, Mr. John Rutledge, Mr. Jonathan Jackson, Mr. John Witherspoon] appointed to consider and report to Congress the most advisable means of securing the several claims of the U. States not included in their ultimatum, of the day of

Recommend, That the Committee to whom was referred the Report of a previous Committee, relative to the said claims be instructed to deliver over to the Secretary for foreign affairs the materials which they may have collected in support thereof, and that the said Secretary perfect and transmit the same to the Ministers Plenipotentiary for negotiating peace for their information and use, provided that

¹ This report, in the writing of John Morin Scott, is in the *Papers of the Continental Congress*, No. 20, I, folio 337. The indorsement shows that it was delivered on this day, entered and read. See *ante* August 12 and *post* August 23.

² This order was entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

On this day, according to the indorsement, a petition, dated Barcelona, February 27, 1782, from John Guy Gautier, was read. It is in the *Papers of the Continental Congress*, No. 42, III, folio 242, and John Jay's note of transmittal is written upon it.

Also, a letter of August 13, from the Secretary at War, laying the memorial of three Canadian Officers, belonging to General Hazen's regiment, before Congress. It is in No. 149, I, folio 579.

nothing which shall be done by virtue of this Resolution shall be construed to affect any dispute which now does or may hereafter subsist between individual States, or *between the U. States, and an individual State.*

That the Ministers Plenipotentiary for negotiating peace be instructed to communicate to his Most Xn Majesty so much of the facts and observations so to be transmitted and in such form, as they shall judge fit, representing to his Majesty that Congress have caused the same to be compiled and laid before him, under a persuasion that he will find therein such clear proofs both of the validity and importance of all their claims as will silence any pretensions by which they may be opposed. That this representation of the grounds of the said claims was rendered the more essential on the part of Congress by the extreme solicitude of their constituents with regard to those objects, and by the ardent desire of Congress not only that this just solicitude should be eventually satisfied; but that it may be found that every useful precaution had been taken to that end; that the favorable circumstances under which a negotiation is likely to be carried on, afford additional confidence that the issue will not disappoint the expectations of the U. States, nor the zeal with which his Majesty has assured them he shall support their interests; but on the contrary that the magnanimity and wisdom which led his Majesty into the war in their behalf, and which have marked his conduct through the course of it, will appear with fresh lustre in the act by which it is to be terminated, and that the alliance and amity which have been cemented by the mingled blood of the two nations, will derive still further stability from the final attainment of the just demands of both of them.¹

The Committee of the Week [Mr. Samuel John Atlee, Mr. Noble Wimberly Jones, Mr. David Howell] report.

A memorial and petition from sundry prisoners lately arrived from Great Britain praying that they may be lodged during their continuance in Philadelphia in the barracks and be supplied with rations—

The Committee beg leave to recommend that the Secretary at War request the liberty of the barracks for the said prisoners of the Executive Council of the State of Pennsylvania and that the ~~Superintendent of Finance~~ ^{Superintendent} Agent of Marine take order for their being supplied with rations.²

¹ This report, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 25, II, folio 125. The indorsement states that it was read on this day.

² This report, in the writing of Samuel John Atlee, is in the *Papers of the Continental Congress*, No. 32, folio 381. The indorsement shows that it was passed on this day.

The Committee of the Week Report:

That the letter from John Mitchell late D. Q. M. G. complaining that a suit has been brought against him for articles purchased for use of the Army, be sent to the Legislature of the State of Pennsylvania to make provision as required by the requisition of Congress of the 19th March 1782.¹

The Committee of the Week Report:

A memorial from James Smith late A. C. Purchases complaining of sundry suits being brought against him for purchases made for the use of the United States, and praying for monies to enable him to discharge his debts &c

The Committee beg leave to recommend that so much of the said memorial as respects the suits brought against the said Smith be sent to the Legislature of the State of Pennsylvania and that the remainder of the said memorial be referred to the ~~Comptroller of~~ **Accounts** Superintendant of Finance.²

MONDAY, AUGUST 19, 1782

Mr. [Turbett] Wright, a delegate for Maryland, returned, and took his seat.

Ordered, That the petition of Jellis Fonda, praying payment for provisions furnished the Oneidas and Tuscaroras, for which actions are commenced against him, be referred to the Superintendant of Finance to take order.³

¹ This report, in the writing of Samuel John Atlee, is in the *Papers of the Continental Congress*, No. 32, folio 385. It is undated but belongs to this period.

² This report, in the writing of Samuel John Atlee, is in the *Papers of the Continental Congress*, No. 32, folio 383. It is undated, but belongs to this period.

On this day, according to the indorsement, a letter of August 4, from the Governor of New York, transmitting concurrent resolutions of the legislature of New York, of July 21 and 22, was referred to the Grand Committee. The letter is in No. 78, VI, folio 139. Committee Book No. 186 shows that the resolutions were "on the present situation of affairs, for augmenting the powers of Congress," and that the Grand Committee was discharged April 28, 1783, and the business referred to a committee of five.

³ This order was entered only in the journal kept by the Secretary of Congress for the Superintendant of Finance: *Morris Papers, Congressional proceedings*.

On this day, according to the indorsement, a memorial of Colonel Lewis Nicola was read. It is in the *Papers of the Continental Congress*, No. 41, VII, folio 88.

TUESDAY, AUGUST 20, 1782

The committee, consisting of Mr. [Daniel] Carroll, Mr. [Edmund] Randolph and Mr. [Joseph] Montgomery, to whom was referred the report of a committee on instructions to the delegates of Massachusetts, ~~relative to the fisheries~~ having reported, "that the facts and observations collected by the committee, be referred to the Secretary for foreign affairs to be by him digested, completed, and transmitted to the ministers plenipotentiary of the United States for negotiating a treaty of peace."

The Committee to whom was referred the Report of a Committee to whom was referred the instruction to the Delegates of Massachusetts Bay have collected the facts and observations herewith reported to Congress, which they recommend to be referred to the Secretary for Foreign Affairs to be by him digested, completed and transmitted to the Ministers Plenipotentiary for negotiating peace for their information and use.¹

On the 17th of November, 1781, the delegates for Massachusetts laid before Congress the following act of the legislature of that State.

"COMMONWEALTH OF MASSACHUSETTS,

"Oct. 27, 1781.

"It appearing to this court of the highest importance to the United States in general, and to this State in particular, that the right to the fisheries heretofore enjoyed by the subjects of the United States, should in a future settlement of peace be acknowledged and secured to them: Therefore,

"Resolved, That the delegates in Congress for this Commonwealth be and they are hereby instructed, to represent to Congress the importance of the fisheries to this State, and to use their utmost influence that instructions be given to the ministers appointed by Congress

¹ This paragraph, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 20, I, folio 87.

for negotiating a peace, in the most pressing manner to insist, that the free and unmolested exercise of this right be continued and secured to the subjects of the United States of America, in a future settlement of peace.

“And it is further resolved, That the secretary be and he is hereby directed, to forward the foregoing resolve without delay to the delegates in Congress for this Commonwealth.”

The foregoing, together with sundry papers relative to the fisheries, was referred to a committee, consisting of Mr. [James] Lovell, Mr. [Daniel] Carroll and Mr. [James] Madison, who on the 8th January, 1782, reported as follows:

The committee to whom were referred the several papers relating to the fisheries have duly considered the same, and are of opinion, that the best security for this object, short of admitting it into the ultimatum for peace, will be a representation to his Most Christian Majesty, through our ministers for negotiating peace, of its great importance to the United States, and of the grounds upon which it is claimed and expected; and being also of opinion that a like representation touching the other claims of the United States excluded from the ultimatum would have a tendency no less salutary, they have prepared instructions to the said ministers in this comprehensive plan, and report the same as follows for the consideration of Congress:

That the ministers plenipotentiary for negotiating peace, or in case they should not be convened, the minister plenipotentiary at the Court of Versailles, be instructed to acquaint his Most Christian Majesty, that notwithstanding the occasion presented to the United States, by the signal and various advantages gained over the enemy, of enlarging their ultimatum for peace, the firm reliance which Congress have on the friendship

and influence of his Majesty has determined them not to depart from their resolution of the day of last, by which all the objects of their desires and expectations, excepting only the independence of the United States and their alliance with his Majesty, are eventually submitted to his councils. But that in order to make him more fully sensible of the extent and foundation of these desires and expectations, have thought it expedient that some observations should be made to him relative to the several objects which are most likely to fall within the compass of negotiation.

One of these objects, and which is intimately connected with the independence of the United States, is the exterior boundary by which their extent is to be defined. On this occasion it is to be observed, that our contest will be with his Britannick Majesty alone. Under his authority the limits of these states, while in the character of colonies, were established; to these limits the United States, considered as independent sovereignties, have succeeded. Whatsoever territorial rights, therefore, belonged to them before the Revolution, were necessarily devolved upon them at the era of independence.

Those grounds support the assertion, that the United States are bounded as they are declared to be in the instructions given to Mr. Adams on the day of August, 1779.

As the efforts of his Britannick Majesty will be principally directed against the western and northwestern boundary, the observations on this subject may be confined thereto.

The treaty of Paris of 1763, to which his Most Christian Majesty and the British king were parties, restricted those colonies, which were before extended by their charters to the sea, to the river Mississippi.

To this river then these states will still extend in the same manner, unless by some subsequent constitutional and rightful act their limits have been abridged.

The negotiations on this head will probably assume a variety of forms. None perhaps will be more strenuously urged than those which arise from his Britannick Majesty's proclamation on the 7th day of October, 1763, the treaty of Fort Stanwix, in 1768, between him and the Six Nations, and the British statute in 1774, establishing, among other things, the boundaries of Quebec.

1. If it can be supposed that the purpose of the proclamation was to affect the boundaries of the United States, it must be remembered to be the act of the very prince against whom we contend; that it preceded, a short time only, the manifestation of those wicked and oppressive measures which gave birth to the Revolution; and that it directly interfered with the rights accruing to the colonies by the ancient and more solemn acts of his predecessors.

But by the prohibition to the governours of the other colonies than of Quebec, East Florida, or West Florida, to grant warrants of survey, or pass patents "for the present, and until his (the British king's) farther pleasure should be known," for any lands beyond the heads or sources of any of the rivers, which fall into the Atlantick ocean from the west and northwest, is strongly shown an opinion that there were lands beyond the heads of those rivers within the grants of the governours.

By the prohibition too to grant warrants of survey, or pass patents for any lands whatever, which, "not having been ceded to or purchased by the British king, were reserved to the Indians, or any of them," a restriction of territory could not have been designed by a king, who granted the charters to the colonies, knowing that they would interfere with the rights of the Indians, who

has always considered a cession, or purchase from the Indians, not so much the source of a title as a milder means of preventing their hostility, who, since the date of the proclamation, has granted through the prohibited governours themselves large quantities of land beyond the heads of those rivers, and whose own geographer, in a map describing and distinguishing the British, Spanish and French dominions in America, according to the aforesaid treaty of Paris, carries the states of Georgia, North Carolina, South Carolina and Virginia, as far as the Mississippi.

In a word, this part of the proclamation seems to have been intended merely to shut up the land offices, not to curtail limits; to keep the Indians in peace, not to relinquish the rights accruing under the charters, and particularly that of pre-emption.

2. The treaty of Fort Stanwix is susceptible of a similar answer, by viewing it as an instrument of peace, not the conveyance of a title. For there is reason to believe, that the British king has never ratified it; and yet it is notorious that his governours have granted lands within the cession then made.

If it be said that the authority to grant those lands was derived from the treaty of Lancaster, in 1744, here then is a forcible illustration of our doctrine. For on what principle, but on account of peace, could the British king have attempted to procure a new cession of the same country? On the other hand, if the authority to grant those lands was not derived from the treaty of Lancaster, it can rest on no other foundation than that of his charters.

3. The Quebec act is one of the multiplied causes of our opposition, and finally of the Revolution. No stress, therefore, ought to be laid on it, even if in its operation it abridged the boundaries of the states. But the pro-

vision, that nothing therein contained relative to the boundary of the province of Quebec should in any wise affect the boundaries of any other colony, excludes such an operation, and confirms chartered rights.

Should Great Britain retain that portion of the United States bordering on the Mississippi, the neighbourhood of her possessions will be imminently dangerous to our peace. Should she also retain Canada and West Florida, or even Canada alone, by applying herself to the settlement of that country, and pushing on her trade there with vigour, a new nursery for her marine will speedily be established.

From a full confidence that the western territory now contended for lay within the United States, the British posts therein have been reduced by our citizens, and American government is now exercised within the same; large bounties of land have been promised to the army; and we have relied on it as an important source for discharging the debts incurred during the war.

For a considerable distance beyond the Apalachian mountains, and particularly on the Ohio, American citizens are actually settled at this day. By the surrender therefore of the western territory to Great Britain, a large number of fencible men, men too who have not been behind any of their fellow citizens in the struggle for liberty, would be thrown back within her power.

But a decisive objection exists against this mutilation of our country, that the principle by which it would be limited to the distance of a mile only from the Mississippi, would justify mutilations to an immense extent.

~~Another object in which these states are not less interested is their common right of fishing in the North American seas and particularly on the banks of Newfoundland. With respect to this claim of the United States the said ministers are instructed~~

Another claim is the common right of the United States to take fish in the North American seas, and particularly on the banks of Newfoundland. With respect to this object, the said ministers are instructed to consider and contend for it, as described in the instructions relative to a treaty of commerce, given to John Adams on the twenty-ninth of September, 1779, as equally desired and expected by Congress with any of the other claims not made ultimata in the instructions given to the ministers plenipotentiary for negotiating a peace on the day of last, and are therein referred to as objects of the desires and expectations of Congress. They are also instructed to observe to his Most Christian Majesty with respect to this claim, that it does not extend to any parts of the sea lying within three leagues of the shores held by Great Britain or any other nation. That under this limitation it is conceived by Congress, a common right of taking fish cannot be denied to them without a manifest violation of the freedom of the seas, as established by the law of nations, and the dictates of reason; according to both which the use of the sea, except such parts thereof as lie in the vicinity of the shore, and are deemed appurtenant thereto, is common to all nations, those only excepted who have either by positive convention, or by long and silent acquiescence under exclusion, renounced that common right; that neither of these exceptions militate against the claim of the United States, since it does not extend to the vicinity of the shore, and since they are so far from having either expressly or tacitly renounced their right, that they were prior to the war, though indeed not in the character of an independent nation, in the constant, and even during the war, in the occasional exercise of it; and that although a greater space than three leagues has in some instances been, both by publick

treaties and by custom, annexed to the shore as part of the same dominion, yet, as it is the present aim of the maritime powers to circumscribe, as far as reason will justify, all exclusive pretensions to the sea, and as that is the distance specified in a treaty to which both Great Britain and his Majesty are parties, and which relates to the very object in question, it was supposed that no other distance could, in the present case, be more properly assumed; that if a greater or an indefinite distance should be alleged to be appurtenant by the law of nations to the shore, it may be answered, that the fisheries in question, even those on the banks of Newfoundland, being of so vast an extent, might with much greater reason be deemed appurtenant to the whole continent of North America than to the inconsiderable portion of it held by Great Britain; that Congress expect, with greater assurance, the concurrence of his Majesty in these ideas, since his own claim to the fisheries would, by a contrary doctrine, be suspended on the mere concession of Great Britain, instead of resting on the solid and honourable basis of the law of nations, and of right; that if Great Britain cannot, by virtue of her occupancy of the shore, claim an exclusive use of the fisheries beyond the vicinity thereof, and a right to the common use is incident to the United States as a free and independent community, they cannot admit that they have no such right, without renouncing an attribute of that sovereignty which they are bound, as well by respect for his Majesty's honour as for their own interests and dignity, to maintain entire; that this right is no less indispensable in its exercise than it is indisputable in its principles, the inhabitants of a considerable part of the United States being dependent thereon, both for a material proportion of their subsistence, and for the means of their commerce; and as

they were in the full enjoyment of this resource prior to the Revolution, the loss of it by an event from which very different expectations have been cherished, and which ought to bestow, as far as possible, equal advantages on all who have laboured equally for its accomplishment, could not fail to be attended with disappointment, and mortifying comparisons: that from these considerations, Congress have the most earnest desire, as well as the most sanguine hope, that his Majesty's efforts will obtain for his allies a stipulation on the part of Great Britain, not to molest them in the common use of the fisheries, as above stated; or, if insuperable difficulties should oppose a positive stipulation in their favour, that his Majesty will in every event find means to avoid a surrender of that common right; that whilst, however, this latter expedient is suggested to his Majesty, it cannot escape his discernment that it is so pregnant with dangerous consequences, that the former cannot be contended for with too much urgency and zeal.

That with respect to the confiscated property of those who have adhered to the interests of the enemy, and which may possibly be claimed for the former owners, the aforesaid ministers are to observe to his Majesty, that these confiscations having taken place, more or less, in almost all the states; and having undergone various transfers from individual to individual, a specifick restitution is absolutely impracticable; and when the vast amount of them is compared with the ravages and burdens which the war will leave behind it, an equivalent restitution would be little less than impracticable; that as the general usage of nations, as well as the particular law of Great Britain, excludes aliens from holding real and immoveable estates, the moment our national independence was assumed, the titles of all those who, on or prior to that event, espoused

the side of the enemy, became, under strict construction, extinct; and that such as afterwards deserted to them, falling under the denomination of traitors, have forfeited not only their estates but their lives to their country; that although it were to be admitted that the peculiarity of circumstances which distinguish the present war between the United States and Great Britain, from a war between two nations separate and independent at its origin, affords some plea for reversing the confiscations, this consideration is far outweighed by the great value of which the citizens of these states have, contrary to the laws of war, been despoiled by the enemy, and the still greater losses which they have suffered from wanton destruction; in both which, those who have fled, or been expelled from their country, have been often the chief instigators and instruments; and by the first of which, many of them have enriched themselves greatly beyond their losses.

That the ministers further observe to his Majesty, that any stipulations authorising such fugitives and exiles from their country to return into it, would not only be dishonourable to the governments of these states, but so obnoxious to the people at large, and especially to such as have been the objects of their outrages, that it is the particular wish of Congress that it may be most strenuously opposed; that such a permission is the more to be dreaded, as it could only be intended for such as are totally devoid both of honour and sensibility, who alone would avail themselves of a privilege that would subject them to the indignation and resentments which they had provoked.

That as it is not improbable the subject of commerce will, among others, be introduced into the negotiation, the ministers be instructed to observe thereon to his Most Christian Majesty, that the United States,

as a free and sovereign nation, being the absolute masters as well of their commerce as of their government, no claim of right can nor probably will, be pretended with respect to the former, by those who relinquish such pretension with respect to the latter; that it is the wish and the policy of the United States to preserve their commerce as unfettered as possible with stipulations in favour of nations with which they are now unconnected, and particularly of that with which they are now at war; that this policy cannot but coincide with the sentiments of his Majesty, since it alone will leave to his allies the future opportunity of manifesting their preference of his interests to those of his enemies and rivals; that Congress do for these reasons most earnestly desire, expect and entreat that his Majesty will spare no efforts that may be necessary to exclude from a treaty every article which would restrain the United States from imposing on the trade of Great Britain any duties, restrictions or prohibitions which may hereafter be judged expedient; unless, and so far only, as a relaxation in this point may be essentially necessary for obtaining peace, or the several objects above mentioned.¹

On the 22d of January, 1782, the foregoing report was referred to another committee, consisting of Mr. [Daniel] Carroll, Mr. [Edmund] Randolph and Mr. [Joseph] Montgomery, who on the 16th day of August, 1782, reported, that they have collected facts and observations as follows, which they recommend to be referred to the Secretary for foreign affairs, to be by him digested, completed and transmitted to the ministers plenipotentiary for negotiating a peace, for their information and use.

¹ This report, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 20, I, folio 75-83.

The Committee to whom was referred the report of the Committee containing instructions to the ministers of the United States concerning these objects, which are not made ~~ultima~~ report as follows:

~~Resolved~~, That the following instructions be given to the ministers Plenipotentiary of the United States for negotiating a peace.

Gentlemen,

Although by our act of the day of last we excluded the boundaries of the United States from the ~~ultima~~ of peace, and by a subsequent act of the day of which repealed the separate powers of Mr. J. Adams to enter into a treaty of commerce with Great Britain the fisheries were reduced to the condition of other objects not made ~~ultima~~, yet our late resolution of the day of January will evince our solicitude for the acquisition of both. This solicitude impels us to suggest to you those considerations which may establish or explain our pretensions.

Facts and Observations in support of the several Claims of the United States not included in their Ultimatum of the 15th of June, 1781.

1. Our common right to take fish in the North American seas, and particularly in that part of them which goes under the name of the Banks of Newfoundland, has its origin in the natural incapacity of the sea to be appropriated.

The practice of nations hath, for the sake of safety and tranquillity, abridged this freedom of the ocean, by annexing to the coast a reasonable tract of the water; and Great Britain, by availing herself of this usage, ~~will probably~~ may possibly arrogate the exclusive enjoyment of the banks, as appurtenant to the Island of Newfoundland.

These banks, the nearest point of which is thirty-five leagues distant from Cape Race, are too far advanced in the Atlantick to be a dependance of the shores.[a] There has been great ~~schism~~ division among writers in determining to what extent the sea is to be considered as incidental to the territory which it washes. Some have apportioned one hundred miles, other sixty, and

others as much as could be seen from land in a fair day. See Anderson's history of commerce, 2 vol. 17, appendix.

If we pass from theory to the stipulations of treaties, we shall find better aid, but by no means uniformity. By better aid, we mean British precedents; for against these, a British king surely will not struggle.

[b] In the second year of James the first, commissioners were appointed on the part of England and Scotland, to treat of and conclude a union between the two kingdoms. By the articles for the regulation of trade, the sea, for the space of fourteen miles from the coast of Scotland, was reserved to Scotchmen only; and it was reciprocally provided in favour of Englishmen. See Spotswood's history of Scotland, 483, and 2 Anderson, Appendix, 17.

Should this example be thought to lose the force of its application, from having been the agreement of the subjects of one and the same prince, a letter may be quoted from Secretary Staunton to Lord Carlton, the English ambassador at the Hague, bearing date the 21st of January, 1618. In it the ambassador is commanded to urge the States General, in the name of King James, to publish a placart prohibiting their subjects to fish within fourteen miles of his coasts until the main business should be finally accommodated by commissioners.

[c] The treaty of Paris, in 1763, to which his Most Christian Majesty as well as his Britannick Majesty was a party, excludes the French from the exercise of the fishery in the Gulf of St. Lawrence only within three leagues from the shore, extending the distance round Cape Breton to fifteen leagues.

[d] By inspecting the ancient treaties between England and the dukes of Brittany and Burgundy, ~~the liberty of fishing is not restrained~~ we shall find that the

portion of the sea which is supposed to belong to the coast is so far from being increased beyond fourteen miles, or even three leagues, that the liberty of fishing in every part thereof is asserted. See treaties between Henry sixth, and the Duchess of Burgundy; Edward fourth, and Francis, Duke of Brittany; Henry seventh, and Philip fourth, Arch Duke of Austria; and Duke of Burgundy and Henry eighth and Charles fifth, Emperor and Duke of Burgundy.

Had the kings of England esteemed the fisheries the property of the crown, they would not have admitted aliens to a promiscuous fishing with their own subjects without some valuable consideration, or an acknowledgment by way of *salvo jure*. But, instead of a proceeding like this, they have in a succession of ages deliberately omitted to challenge to themselves the sole right of the fisheries.

[e] Queen Elizabeth too, being involved in a dispute with the king of Denmark concerning the fishery at Wardhuys, near the North Cape, instructs her plenipotentiaries to deny that "the property of the sea at any distance whatsoever is consequent to the banks." The king of Denmark does not attempt in his reply to establish what she had thus denied, but rests his exclusive claims upon the authority of old treaties between the two crowns. See Rymer's *Foedera*, tom. 16th, p. 425.

Thus it appears that, upon strict principles of natural law, the sea is unsusceptible of appropriation; that a species of conventional law has annexed a reasonable district of it to the coast which borders on it; and that in many of the treaties to which Great Britain has acceded, no distance has been assumed for this purpose beyond fourteen miles.

Were these rules then allowed to influence the pretensions of Great Britain with respect to the banks of Newfoundland, they would be readily condemned. Nor could they be supported, were the sea appendant to the shore as far as thirty leagues, the greatest distance, perhaps, which has at any time been ceded to the king of England by treaty.

Nations may indeed, either by positive contract, or by long and silent acquiescence under exclusion, renounce their privileges in the sea. But the United States have not only never disclaimed their right of fishing therein, but have been in the constant enjoyment of it during the existence of British government, and occasionally so ever since the Revolution.

It deserves attention, that the fisheries furnish the inhabitants of a considerable part of the United States with an important proportion of their subsistence, and the means of their commerce. Should they lose this resource by the accomplishment of independence, an event from which very different expectations have been cherished, and which ought to bestow equal advantages on all who have laboured equally in giving birth to it, such a loss cannot fail to be attended with disappointment and mortifying comparisons.¹

As it is the aim of the maritime powers to circumscribe, as far as equity will suffer, all exclusive claims to the sea, we trust that his Most Christian Majesty will coincide with our present doctrines.² Perhaps, however,

¹ This sentence was changed in the draft by John Rutledge to read: "Should they lose this resource by the accomplishment of independence it would be an event from which very different expectations have been cherished, and attended with the most mortifying disappointment," but Congress appears to have adopted the draft in the original form.

² This sentence was changed in the draft by John Rutledge to read: * * * "will coincide with our views," and all thereafter up to the paragraph beginning: "New Hampshire claims," etc., was struck out by him. Congress, however, appears to have adopted the draft in its original form, except for the paragraph which is struck out in the text.

the ninth and tenth articles of the treaty of amity and commerce may be supposed, from a little ambiguity in their language, to forbid us to insist on a participation of the fisheries on the banks of Newfoundland and in the Gulf of St. Lawrence, as being frequented and enjoyed by the subjects of France. But what is the genuine construction of these articles?

The ninth begins with a general stipulation, that the subjects of one party shall abstain from fishing in all places possessed or to be possessed by the other; interdicts those of France from fishing in the havens, bays, creeks, roads, coasts or places which the United States hold, or shall hereafter hold, as well as the inhabitants of the United States, from fishing in the havens, bays, creeks, roads, coasts or places which the Most Christian King possesses, or shall hereafter possess. But this exclusion is to take place only so long and so far as an exemption shall not in this respect have been granted to some other nation.

The tenth article binds the United States and their citizens not to disturb the subjects of the Most Christian King in the exercise of the right of fishing on the banks of Newfoundland, nor in their indefinite and exclusive privileges on the coast of the island of that name, conformably to the true sense and meaning of the treaties of Utrecht and Paris.[f]

If it can be truly said, that the fisheries in the Gulf of St. Lawrence and on the banks of Newfoundland are possessed or holden by France, the citizens of the United States are entitled, according to the provision of the ninth article, to like access with the subjects of Great Britain.

But the sea cannot be holden or possessed, these terms implying appropriation. They accord well with havens, bays, creeks, roads or coasts; and also with

“places,” should this word be confined, as it ought to be in its interpretation, to waters susceptible of occupancy.

Had it been conceived that the ninth article debarred the United States from fishing on the banks of Newfoundland, it would have been unnecessary to guard in the tenth against the molestation of the French in fishing there. Besides, an engagement not to disturb, does of itself import that the citizens of the United States may fish, if they do not disturb.

There seems too a remarkable antithesis between the right of fishing and the right derived from the treaty of Utrecht, as to the coast of the island of Newfoundland. The former is called simply the enjoyment and exercise of the right of fishing; but the latter is more pointedly denominated indefinite and exclusive. In a word, we are persuaded, from our experience of the candour and friendship of his Most Christian Majesty, that it was not his design to depress the United States by thrusting them from a share of the fisheries, which Providence appears to have destined for their use; but rather to secure the fisheries of his own country from encroachment, and his subjects from interruption in those of America.

~~II. Our confidence in your historical knowledge rescues us from the labour of a minute account of the American settlements; we shall therefore exhibit in the discussion of our boundaries a summary only of our title, and even in this we shall avoid the mention of the adjustment of limits or of disputes concerning them between different States unless the general enquiry can receive light from such adjustment or disputes.~~

2. With respect to the boundaries of the states. The patent to the council of Plymouth, bearing date the 18th of November, 1620, is the parent from which the eastern states proceed.[g]

New Hampshire claims under the royal commission appointing Benning Wentworth, esquire, governour of that province,[h] on the 13th July, in the fifteenth year of the reign of George the second.

Massachusetts claims under the charter granted by William and Mary, on the 7th October, 1691. The treaty of Paris fixes the Mississippi as the western limit of the old colony of Massachusetts Bay, which is one of the colonies incorporated by that charter.[i] See old charter of 4th March, 1628-9.

The charter of April 23, 1662, granted by Charles the second to Winthrop and others, is the ground of the territorial claims of Connecticut. The treaty of Paris is allowed to restrict that State also to the Mississippi.[j]

On the 8th July, 1662, the same prince granted the charter under which Rhode Island claims.[k]

New York assigns, as sources of her title, the grant from Charles second to the Duke of York, in 1663-4, the capitulation of the Dutch in the same year, the treaty of Westminster, 1674, and the renewal or confirmation of the duke's grant immediately after the treaty. This State adds, that the lands on the west side of Connecticut river belong to it under the farther title accruing by the subjection of the Five Nations, the native proprietors; and that the country, as far northward as the river St. Lawrence, and westward without known limits, is the property of New York, as having been formerly possessed by those tribes of Indians and their tributaries. The treaties with those nations in 1684, 1701, 1726, 1744, and 1754, are particularly referred to.[l]

On the 23d June, 1664, the Duke of York conveyed, out of his aforesaid grant to Lord Berkeley and Sir George Carteret, the limits which New Jersey claims. Upon this ground, and the resignation of the govern-

ment into the hands of the crown on the 14th August, 1703, is the title of this State built.[m]

Pensylvania claims under the charter granted by Charles the second, on the 4th of March, 1681-2, to William Penn.[n]

Delaware claims under two grants from the Duke of York to William Penn, on the 24th August, 1683.[o]

On the 20th June, 1632, Charles the first granted to Lord Baltimore the limits which Maryland claims.[p]

Virginia claims under the charter granted by James first, on the 23d of May, 1609, to the treasurer and company, the resumption of the country into the hands of the king, and the charter of Charles second to the colony of Virginia, on the 10th October, 1676. The treaty of Paris marks its western boundary.[q]

North Carolina and South Carolina claim jointly in the first instance under the charter of 1662, to Clarendon and others, and its confirmation in 1664, with an extension of limits. The British statute of 1729, enabling the king to pay the consideration of the surrender of the proprietors, makes a material point in their case. The seperate claims of these two states depend upon the act which divided them. The treaty of Paris defines the western boundary of each.[r]

The first grant on which Georgia relies, is that made to the trustees on the 8th June, 1732, and limited to the west by the treaty of Paris. The second grant is the proclamation of 1763.[s]

Were the lands included within these limits merely such as were granted to individuals and settled, or granted and not settled, at the time of the Revolution, they could not be brought into controversy. For no question can arise concerning boundaries until the recognition of independence; and this event, by deposing the king of Great Britain from the rank of lord

paramount and chief magistrate of America, destroys the only principles by which lands falling within the two preceding descriptions could return into his power. But the views, interests and conduct of his Britannick Majesty forbid us to expect that he will acknowledge the territory remaining ungranted at the era of independence to be, in like manner, the property of the United States, or of the particular state within the limits of which it is comprised.

It is therefore incumbent on us to show—

First, That the territorial rights of the thirteen United States, while in the character of British colonies, were the same with those defined in the instructions given to Mr. J. Adams on the day of August, 1779; and,

Secondly, That the United States, considered as independent sovereignties, have succeeded to those rights; or,

Thirdly, That if the vacant lands cannot be demanded upon the preceding grounds, that is, upon the titles of individual states, they are to be deemed to have been the property of his Britannick Majesty immediately before the Revolution, and to be now devolved upon the United States collectively taken.

First, So fair are our pretensions rendered by the united operation of the grants, charters, royal commissions and Indian cessions enumerated above, that we shall content ourselves with reviewing the objections which will most probably be urged against them, without entering into direct proofs of our titles.

First objection. Even upon the supposition that the charter of Massachusetts is valid, so as to cover the vacant lands, still it does not follow, that St. John's river is part of its eastern boundary. For that river is contended to be in Nova Scotia under the expression in the new charter of Massachusetts, in 1691, which conveys the country between the province of Maine and

Nova Scotia. The southwest boundary of Nova Scotia, therefore, will regulate this claim. But it is well known that in the altercation between France and Great Britain upon this very subject, in 1751, Acadia, or Nova Scotia, was asserted by the latter to be bounded by Pentagoet or Penobscot river.

Answer. It is to be observed, that when the boundaries of the United States were declared to be *ultima*, it was not thought advisable to continue the war merely to obtain territory as far as St. John's river; but that the dividing line of Massachusetts and Nova Scotia was to be consigned to future settlement. It must be confessed also that this country, which is said in the new charter to border on Nova Scotia and the province of Maine, on opposite sides, and which goes under the name of Sagadahock, cannot be proved to extend to the river St. John, as clearly as to that of St. Croix. But there is some reason, notwithstanding, to believe that Nova Scotia was never supposed by the British King, in any grant to his subjects, to come to the south of St. John's river, although he might have exacted from France a relinquishment of the lands to the river Penobscot, or even Kennebeck, as a part of Nova Scotia.

The first notice taken of Nova Scotia by the king of Great Britain was in a grant which he made of that country to Sir William Alexander, on the 10th September, 1621. According to this grant, it was to begin at Cape Sable, to extend towards St. Mary's bay, to cross the great bay between the Etchemins and Sourigois to the mouth of the river St. Croix, to run up to the source of that river, and from thence by a strait line drawn northwardly to the great river of Canada.[t] On the 12th July, 1625, a patent issued to the same Sir William Alexander, confirming to him the same limits.[u]

These grants could not reach to the west of St. Croix, "because" (say the English commissaries in their memorial of the 11th January, 1751, s. 42,) "all the country to the westward of the river St. Croix had, in the year 1620, before the date of the first of them, been granted by King James to certain of his subjects, by the name of the council of Plymouth, of which grantees Sir William Alexander was one, and who, by virtue of an agreement among the said grantees, possessed the country lying between the river St. Croix and Pemaquid, a little to the westward of Pentagoet." [v]

Popple's map, which was undertaken, as the author relates, with the approbation of the lords commissioners of trade and plantations, makes St. Croix the western boundary of Nova Scotia. [w] Champlain expressly bounds Acadia by St. Croix to the westward. [w] We may add, as being farther corroborative of this western limit of Nova Scotia, that the English commissaries themselves, in their reply of the 4th October, 1751, commend the map in the fourth volume of Purchas's Pilgrim as the first ancient map of Nova Scotia and New England deserving notice; the latter of which they assert to be bounded northwardly, as is delineated in the map, by the river St. Croix. [x] The same commissaries afterwards remark, that it is clear from history that the country between the rivers Sagadahock and St. Croix had been settled many years earlier than the date of the new charter of Massachusetts; and that Great Britain considered it as part of her American colonies. It could not have been included within Nova Scotia, since it is expressly contradistinguished from it. [x] Sagadahock too is granted to the Duke of York under the description of "all that part of the main land of New England beginning at a certain place called or known by the name of St. Croix adjoining to New Scotland in America."

Should it be argued, that it was manifestly the opinion in England at the time of granting the new charter that the lands between the rivers Sagadahock and St. Croix were not included within the limits of Massachusetts, since grants of them were not valid until confirmed by the crown;—an answer arises from two considerations. First, this charter incorporates these lands into the province of Massachusetts in unequivocal terms; and, secondly, one at least of the counsellors directed to be chosen yearly for the province at large, was to be from the inhabitants or proprietors of lands within this territory.[y] The board of trade and plantations on the 29th April, 1700, declared in a solemn act, that “New England ought of right to extend to St. Croix.”[z] See the act.

It does not appear then, that Nova Scotia hath ever been carried to the west of the River St. Croix in any British grant, or in any British document relative to New England. We own that in the memorials of the Court of Great Britain to the French Court, after the peace of Aix-la-Chapelle, relative to the boundaries of Nova Scotia, Penobscot river is sometimes asserted to be one of its boundaries, and Kennebeck, at others. But nothing is proved from thence, but a desire in the British king to procure an absolute release from France of all her pretensions, howsoever distant. For a general discussion on this subject, see the British and French memorials on the occasion, and to the treaties of St. Germain, on the 29th of March, 1632, of Westminster, 3d November, 1655, and of Breda, 31st July, 1667.

As to the territory of Sagadahock, which is synonymous with the lands between the province of Maine and Nova Scotia, conveyed by the new charter, we can only observe upon the expression already cited from the grant thereof to the Duke of York, that the “place

called St. Croix adjoining to New Scotland" must mean the territory which went by that name. Had the river only been designed, it alone would have been mentioned. It seems to have been the practice of those times to denominate a country from a river which bounded it. The river Sagadahock accordingly, at first, gave its own appellation to the whole country as far as the river St. Croix, and afterwards to the country from thence to the river St. John, which had before been called St. Croix. The *place*, therefore, called St. Croix, adjoining to New Scotland, was most likely intended to describe the lands between the rivers St. Croix and St. John. History does not inform us that any particular spot of them was known as St. Croix. But as the first course of the grant to the Duke of York plainly runs from Nova Scotia to Massachusetts along the seacoast, it is probable that it was to begin at the first point in the country of St. Croix on the coast. This must have been on St. John's river. And as the last line of the grant is not closed, it is more agreeable to the usage of those days to adopt a natural boundary. For this purpose, St. John's river was obvious as far as its head, and afterwards a line to the great river of Canada.[aa] See grant to the Duke of York for Sagadahock, 12th March, 1663-4.

We are obliged to urge probabilities, because in the early possession of a rough unreclaimed country accuracy of lines cannot be much attended to. But we wish that the northeastern boundary of Massachusetts may be left to future discussion, when we may be able to obtain other evidence which the war has removed from us.

Second objection. But let the new charter of Massachusetts comprehend, by its expressions, the country from the river St. Croix to that of St. John, and the

title papers of the other states cover by their terms ever so much land, they cannot be supposed, at this day, to justify ~~the demand~~ of such wide limits as are demanded in Mr. Adams's instructions of August, 1779.

For 1. The charters of Massachusetts, Connecticut, Virginia, North Carolina, South Carolina and Georgia, never had any serious western limit, since the South Sea was thought to be nearer the Atlantick than it really is; and if its true position had been known, such a grant would have been too extravagant.

2. The charters of Virginia, North Carolina and South Carolina, were granted to proprietors, and that of Georgia to trustees, and were afterwards resumed into the king's hands. It is therefore incumbent on those states to show, either their right of succession to the proprietors and trustees, in opposition to the resumption of the crown, or an obligation on the crown to appropriate to them, when changed into royal governments, the same boundaries which they held when proprietary or fiduciary.

3. The treaties with the Five Nations under which New York claims, transferred to that colony no title to their lands.

4. The proclamation of 1763 abridged all the colonies which claimed beyond the sources of the rivers falling into the Atlantick to those sources.

5. By the treaty of Fort Stanwix, in 1768, the king of Great Britain bought from the Six Nations, in his own name, a great part of the country claimed by Virginia to the west of the Apalachian mountains; and by several other treaties with the Indian tribes, purchases have been made within its chartered limits, from which it may be inferred, that this colony was before destitute of right to the lands so purchased: And,

6. The statute of the British parliament, commonly called the Quebec act, in 1774, cuts off the extensive claims of the United States.

Answer to objection second, part first. It cannot be admitted that even a miscomputation of the distance between the Atlantick and Pacifick oceans, vitiates the charters which extend from the one to the other. In every contest among the European powers concerning the soil of America, the validity of charters hath been conceded.[bb] See treaties of Germain, Westminster, and Breda, and the memorials of the commissaries above referred to.

The king of Great Britain will not fail to acknowledge their sacredness when he calls to mind the doctrine of the British laws, by which the charters of corporations are protected. Of how much more importance is a charter granted to the suffering explorers of the American wilderness.

It is also remarkable, that during the rage for the sacrifice of American charters in the reign of Charles II. some of them were vacated by the judgment of a court, by which their former legal existence was recognised; and that the arbitrary administration of a Stuart himself would not attempt to destroy a charter without the formality of legal process. An American charter then, being thus respectable in its nature, equity will not suffer it to be annulled on account of a misconception of its contents, when the grantees could not possibly have contributed to the mistake by fraudulently withholding information upon the subject, and when the king hath never pretended that he was deceived, or erred. But had the interval between these seas been precisely ascertained, it is not probable that the king of England would have divided the chartered boundaries now in question into more governments. For perhaps

his principal object at that time was to acquire by that form of occupancy which originated in this western world, to wit, by charters, a title to the lands comprehended therein against foreign powers. The seacoast too was not in his opinion more than sufficient for the territory of a single colony, as is manifested in the charter to Virginia, in 1609; and the interior parts, over-spread as they were by savages, and distant as they must be from that relief from Europe, without which the new settlements would certainly have perished, would have been a pitiful instance of royal bounty, and no temptation to emigrants; nor is this merely conjectural. Let the charters which run to the South Sea be reviewed in chronological order. By this it will be found, that these extensive limits did not creep in through inadvertence, as they were repeated long after the error had been removed as to the distance of that sea.

On the 23d of May, 1609, James I. granted the charter under which Virginia claims.

On the 3d of November, 1620, the charter to the council at Plymouth was granted.

On the 4th of March, 1628-9, the charter of the old colony of Massachusetts was dated.

On the 20th of March, 1662, the first charter of Carolina was granted.

On the 20th of April, 1662, Connecticut received its charter.

On the 30th of June, 1664, the second charter of Carolina was granted.

On the 7th of October, 1691, the new charter of Massachusetts, which among other things re-established the old colony, was granted.

In 1732, Georgia was erected into a separate government.

If it be necessary to seek other illustrations, an appeal may be made to the act of the British parliament in 1729, (2 G. 2. ch. 34.) which has been already noted, and recites the charter of Carolina as extending to the South Sea. Nay, as late as the year 1740, five commissioners were appointed on the part of the king, and five on that of Lord Carteret, to assign to his lordship his one-eighth of Carolina, which he had refused to surrender; and the South Sea was fixed as the western limit of the territory allotted to him.[cc] We cannot forbear to add a general concession from the crown in the several charters, that when doubts should arise, the construction should be strict against himself, and liberal in behalf of the grantees.

Answer to second part of second objection. The facts related in this branch of the second objection are true; but we shall not attempt to prove that the colonies of Virginia, North Carolina and South Carolina, were lawful successors to the rights of the proprietors. We assume that the lands described by the charters of those colonies were, from their necessary operation, subjected to the jurisdiction of the governments of those colonies respectively; and therefore, that they would have constantly remained so subject during the existence of the proprietary administration, even if the proprietors had had a right to throw them off from that jurisdiction, unless some act of dismemberment had been done. But we protest against such a right of dismemberment being lodged in the proprietors, except with the assent of the people.

The charters of the abovementioned colonies were contracts, to which the king, the proprietors and the emigrants [for themselves] and their posterity were parties. The consideration paid by the king for the product of mines and of future commerce, was the protection of the

proprietors and emigrants. The proprietors disbursed money for the expences of the first settlement, and were the owners of the soil, and the managers of the government. The emigrants were the actual improvers of the country, promising to themselves and their descendants the superintending care of their sovereign, a mild government by the proprietors, and a continuance of the boundaries defined in their charters. We say a continuance of the boundaries: For there were good grounds why the first planters should be opposed to an alteration of boundaries at the will of the proprietors.

1. A power to restrain the proprietors from seperating them into different bodies, and obliging them to defray the charges of government in many feeble hamlets, was essential to their welfare, if not to their safety, and was therefore very probably in their contemplation.

2. The southern district of British America was believed to be fertile in the precious metals. The greater therefore the extent of territory was which lay within a government there, the happier was the prospect of obtaining wealth.

3. Had the proprietors been at liberty to disperse the inhabitants into distinct societies by cantoning the chartered limits into any number of new colonies, the opportunity for oppression would have been ruinous. They might have exacted some hard service, and threatened their tenants with a division of their country on failure of compliance; by which means they would have been exposed to the severe alternative of acquiescing in the tyranny or undergoing the ravages of Indian warfare from the difficulties inevitably attendant upon concentrating the force of various communities.

4. The emigrants hoped that themselves and their posterity would find a facility of living unknown in Europe, and freedom in religion. How obviously might

the former, connected as it is with agriculture and manufactures, and the latter, dependent as it also sometimes is upon the association of persons of a similar persuasion, have been prevented by an arbitrary and malicious contraction of limits.

5. These ideas are supported by the charters themselves. The proprietors and settlers of South Virginia had received a charter on the 10th April, 1606, of which, and the liberties and privileges contained therein, that of 23d of May, 1609, is declared to be an enlargement and explanation, and is an express confirmation. S. 27. [dd] These two charters then forming one system in the same manner with two laws, one of which enlarges and explains the other, it is correct to argue from both.

The first charter recites, that Sir Thomas Gates and his fellow adventurers were desirous of dividing themselves into two several colonies and companies. § 2. In section 3, the king commends the undertaking; in section 4, gives one hundred miles square to the first colony; and the like quantity in section 5, to the second. This cannot be said to favour any subdivisions of chartered territory. Sections 4 and 5. Every other subject was prohibited from planting, or inhabiting behind either of the two colonies. This prohibition was plainly dictated by the danger apprehended from the establishment of distinct governments. In no part of this charter is provision made for the government of more than two colonies. It was impossible then for the proprietors to institute different governments. A new and separate colony erected by their authority could not have a seal, establish a coin, and convey the franchises of British natives to persons born therein of British subjects, nor designate grantees of land. In short, the charter of 1606 does constantly discountenance divisions

of the territory for the purpose of additional provinces.

6. The transition is now easy to the charter of 1609. [Section 2] It was granted not to the adventurers, that is, the proprietors only, but to the planters also; not from undue partiality, but from "respect to their great charges, and the hazard of their lives in the discovery and plantation of the country." Here is a valuable consideration paid by the planters, equal in dignity to the merit of the proprietors, and entitling them to demand that the territory be not impaired. Like observations to those on the charter of 1606 may be used on this occasion. Had the proprietors carved out a new government, it could have acquired its rights, as such, only from a fresh grant from the crown, or the charter of 1609. If the crown must have been resorted to, the charter could not have authorised the measure. But the truth is, that the charter enabled the treasurer and company of adventurers and planters of the city of London for the first colony in Virginia only, [S. 5] to plead and be impleaded; [S. 6] to hold lands within the limits of the charter; [S. 7] to distribute lands under a common seal; [S. 8] to have a council resident in England; [S. 17] to search for mines; to [S. 18] encourage emigration from British dominions; [S. 19] to be free from certain subsidies for twenty years; [S. 21] to seize vessels trafficking without license within the precincts of the charter; [S. 23 and 24] and to dispense criminal and martial justice: nor are the liberties of natural subjects granted to any person born within the limits of the charter, but as those limits constitute the first colony of Virginia.

7. In a third charter passed to the treasurer and company of Virginia, on the 12th March, 1611-12,[ee] the same unity is preserved to the first colony throughout, and a separation is not alluded to in the most distant

way. But it is an argument of real force with respect to Virginia, that the charters of 1609 and 1611-12 were granted to the treasurer and company as a corporation, and that it is a firm principle of British law, that a corporation cannot exclude from their jurisdiction lands placed within it by the terms of its constitution.

8. Analogous to the charters of Virginia are those of the two Carolinas, or more properly of Carolina, respecting the indivisibility of their limits. The territory described therein, and the province of Carolina, are synonymous in many instances.

In the last clause but two in the second charter, the royal word is pledged to the proprietors, "their heirs and assigns, and to the tenants and inhabitants of the said province or territory, both present and to come, and to every of them, that the said province or territory and the tenants and inhabitants thereof, shall not from henceforth be held or reputed any member or part of any colony whatsoever in America, or elsewhere, now transported or made, or hereafter to be transported or made; nor shall be depending on or subject to their government in any thing, but be absolutely separated and divided from the same." Nay, so little was the power of altering the limits conceived to be inherent in the proprietors, that the authority to divide the territory into counties was delegated to them in positive terms.

It must however be confessed, that before the surrender of the charter, in 1729, North and South Carolina had each a governour, council and assembly. But this separation of jurisdictions was not the creature of the proprietors alone, but was effected with the approbation of the inhabitants, some of whom laboured under great inconvenience from having the metropolis and the settled country around it distant from them three hun-

dred miles and upwards.[ff] See Lawson's history of Carolina, p. 256.

The example of New Jersey cannot be cited against the right of the people to demand from the proprietors an entirety of territory. For the very grant upon which they rest expressly warrants an equal division between Lord Berkeley and Sir George Carteret. See the Duke of York's grant [to New Jersey]. The argument from hence would rather be, that when the power of division was intended it was specially mentioned.

It would be tedious to detail, in this place, the many passages in the charters to Lord Baltimore and Mr. Penn, which maintain the principle, that the first limits ought to be permanent. So opposite to private emolument was the office of the trustees of Georgia, that they enjoyed no right which was not for the benefit of the people. The limits granted to the trustees were in fact granted to them. [But we are unable at present to be more particular, not having access to the grant itself.]

What change, then, was wrought by the conversion of the proprietary governments of Virginia, North Carolina and South Carolina, and the fiduciary one of Georgia, into royal?

Virginia. It is needless to inquire whether the charter of 1609 was abolished lawfully or not. Because, as its abolition was the act of the king, he cannot contend that it was produced by violence or injustice; and the company and their successors have yielded to the resumption from 1624 to this day, without bringing it to a forensick discussion, or endeavouring to reverse it by a petition to the crown. Either of these remedies was easy, and constitutional. But a superiour reason is, that a dispute between the king and company, two of the three parties to the charter, ought not to prejudice the people of Virginia, who were the third.

who stipulated with the proprietors for the territorial privileges in the charter with the privity, assent nay guarantee of the king, who could not profit from a rupture between him and the proprietors, and ought not therefore to be injured.

But what if the king had not been an immediate party? Surely his succession to the rights of the company brought with it a succession to their engagements respecting territory; unless James I. as king of England, was authorised to violate, in spoliation of his own subjects, that rule of natural law under the influence of which his Prussian Majesty bound himself, upon obtaining Silesia, to be answerable to the British king for the encumbrances imposed on that country by the Empress of Hungary in his favour.

It is a warrantable corollary from the inability of the proprietors to mutilate the limits in the charter of 1609, that the king standing in their place was alike incapable. This reasoning is not impeached by the divisions which the chartered limits of Virginia have undergone. They were made at periods when the people could not feel an interest in opposing them; when extreme loyalty was the highest virtue; when they were weak. The quotation of their submission in this instance, as an evidence of their consciousness of the king's right, would be somewhat unnatural; since it would suppose, that other men in the same circumstances would probably have acted otherwise.

The objections springing from the proclamation and Quebec statute will be discussed hereafter.

That the king of England thought himself bound to consider the colony of Virginia as possessing the limits of the charter of 1609, except in those cases in which it had been abridged before 1669, appears from the charter of 10th October, 1676. There the colony of

Virginia is mentioned in general terms without definite limits. To confine it to the country then settled, would be inconsistent with its professed design of encouraging the plantation, and would exclude nine tenths of the present inhabitants. Not to confine it thereto, would demonstrate that Virginia was believed by Charles II. to comprehend some vacant land, and consequently that she must hold all the vacant land within the charter of 1609; since a single foot could not be demanded through any other channel. Long ago would the people themselves have required some determinate limits, had they not imagined that the charter of 1609 described them. So far too has the king of England been from marking out the boundaries of Virginia in the charter of 1676, or in any instructions to his governours, that he has by various acts corroborated our principle, that after the extinction of the charter they remained the same as before. For near thirty years has the governour of Virginia, acting under his authority and with his knowledge, granted lands on the west side of the Alleghany mountains. In 1748-9 Sir William Gooch, governour of Virginia, was instructed to grant to the Ohio company lands far westward of the Alleghany mountains, but still as the instruction and the letter enclosing it says, "On the Ohio within his Majesty's colony of Virginia." [gg] In 1753, an act was passed by the assembly of Virginia for the encouragement of settlers on the waters of the Mississippi. To this act the royal assent was given. [hh] In 1754, an act was passed by the same legislature for a similar purpose, in which Virginia is declared to possess lands on and near the waters of Mississippi. A very large sum of money has been levied upon the people of Virginia for the defence of that country. All this has been done with the knowledge and consent of the British king. [ii] In the year

the governour and council of Virginia granted a tract of land at the confluence of the Ohio and Mississippi bounding upon both rivers. [kk] In 1754, Mr. Dinwiddie, governour of Virginia, promised, by his proclamation, a bounty of 200,000 acres of land on the western waters to the officers of the first Virginia regiment.[ll] The many land warrants issued by Lord Dunmore, governour of Virginia, were directed to be located on the lands lying on the western waters. In 1773, courts were holden beyond the Alleghany mountains under the authority and particular direction of the governour of Virginia.

Great sums have been expended by Virginia in defence of the Western Country.[mm]

The present situation of the two Carolinas and Georgia deprives us of the information concerning them, with which we are anxious to furnish you in detail.

The general observations applied to Virginia are applicable to the two Carolinas.

We shall endeavor to transmit to you such documents as may manifest the opinion of the British King to be that the chartered limits remained entire after the surrender. We assure ourselves that such will be found, especially as he has often interfered in the accommodation of their disputes about boundaries, and his ancestor George the 2^d directed a temporary line between North and South Carolina upon the principles of the Charter.

Of Georgia it may be said, that the proclamation of 1763 revived its chartered limits by annexing the lands between the Alatomaha and St. Mary's river to that province; for at the date of that edict a considerable part of the lands northward of Alatomaha was vacant; and to suppose that by Georgia was meant that territory alone which had been granted to individuals, would annex the country south of Alatomaha, and shut out the vacant part lying on the north side of that river.

But as no reasonable solution could be given of so whimsical an arrangement of territory, we may conclude, that the vacant land on the north of Alatomaha was comprised in the term of "Georgia." If so, since Georgia could claim vacant land only by virtue of the deed to the trustees, and that deed must have conveyed full limits, or nothing, it follows, that its territorial rights were restored, if they were affected by the surrender. But it has been already seen in what predicament the trustees stood. They were, what their title imports, mere trustees for the benefit of the province. Strangely then would it sound, that upon the refusal of those benevolent men, who had no personal interest in the trust, to persevere in fostering this infant nation, it must lose every thing, or in other words, hang on the pleasure of the king for a restitution of former rights.

Answer to third part of second objection. New York derives its claim from the Five Nations, insisting, 1st. That the king of England was lord of their soil; 2d. That being so, he transferred his seignory to that then province.

1. The Five Nations (Iroquois, or Six Nations) had from ancient days put themselves and their lands under the protection of Great Britain.[nn] The Duke de Mirepoix, in his memorial of the 14th May, 1755, to the ministry of London, denies that the lands of the Five Nations became vested in his Britannick Majesty by the deeds; but the answer returned by that ministry on the 7th June, in the same year, contends, that the 15th article in the treaty of Utrecht subjects the Five Nations to the dominion of Great Britain. That such subjection according to the genuine interpretation of treaties, relates to the country as well as to the person; and that France is precluded from altercating these points with Great Britain, because she has once acknowledged their

propriety. It will not therefore be insisted, that the territory of the Five Nations belongs to the ancient and just limits of Canada, as the foregoing assertions were urged to confront a pretension of France to this effect; nor will it be denied, that the king of Great Britain was, with respect to his subjects at least, lord of the soil of the Iroquois, by being their protector.

New York maintains, in the second place, that its legislative and executive proceedings from

to prove that this very Iroquois territory has been supported by its blood and treasure; that this circumstance does of itself create an equitable title, which has ripened into an indefeasible one, by Great Britain having always treated the country of the Iroquois and their tributaries up to the forty-fifth degree of northern latitude as transferred from itself to the government of New York.[oo] See documents to be furnished by the delegates of New York.

Answer to fourth part of second objection. The prohibition announced to the governours of all the colonies, except those of Quebec, East Florida and West Florida, to grant warrants of survey, or pass patents "for the present and until his (the British king's) farther pleasure should be known," for any lands beyond the heads or sources of the rivers which fall into the Atlantick ocean from the west and north-west, strongly intimates an opinion, that there were lands beyond the heads of those rivers within the jurisdiction of those governours. Otherwise the prohibition would have been unnecessary. Again, by the injunction "not to grant warrants of survey, or to pass patents for any lands whatever which, not having been ceded to or purchased by the British king, were reserved to the Indians, or any of them," a restriction of terri-

tory could not have been designed by a king, who granted charters to his colonies, knowing that they would interfere with the rights of the Indians, who has always considered a cession or purchase from them as a milder mean of anticipating their hostility rather than a source of title, who since the date of the proclamation has granted, through the prohibited governours themselves, large quantities of lands beyond the heads of those rivers, and whose own geographer, Emanl. Bowen, in a map delineating "the British, Spanish and French dominions in America, according to the treaty of Paris" and this very proclamation, has carried Georgia, South Carolina, North Carolina and Virginia as far as the Mississippi.[pp] The single object of these parts of the proclamation was to suspend the business of the land offices, not to curtail limits; to keep the Indians in peace, not to annihilate the territorial rights of the colonies.

But it may be charged as an inconsistency to set up the proclamation as increasing the limits of Georgia, when it thereby plainly mutilates South Carolina. The fact is, that before and after the cession of Florida, South Carolina asserted a right to the lands between the rivers Alatomaha and St. Mary's. Georgia contradicted. The dispute was ended by this proclamation of the crown, and the title of Georgia is certainly confirmed. Could South Carolina do more than represent her grievance? Having done this, did she confess the authority of Great Britain to dismember her at will, because she did not fly to arms? Another reason might [perhaps] have induced South Carolina to relinquish its opposition with less reluctance. Peace and its incidents being the province of the chief magistrate of the British empire, and the lands between Alatomaha and St. Mary's having been rendered neutral by an agreement with Spain, they were seperated from South Carolina.

Now it might have been the opinion of some, that this circumstance weakened the original title.[qq] See treaty of Aix-la-Chapelle. Upon the prerogative of the crown to manage the affairs of peace, and the rights of France, depends the justice of limiting the American colonies to the Mississippi, by the treaty of Paris.

Answer to the fifth part of the second objection. Nor can the treaty of Fort Stanwix, in 1768, militate against Virginia. For the purchase then ratified did not imply a want of right in the king, but was solely, as was observed of the proclamation, an instrument of peace. Nor yet did he render the ceded lands exclusively his own; because the relation between him and the American royal colonies required his name in all conventions with the Indians concerning territory, even when the benefit redounded to them alone; because the franchise of pre-emption had been often asserted by some of them, and particularly by New Jersey in 172—, by an act of the legislature approved by the royal governour; and because, in the exercise of that franchise, the wealth of the colony, within which the purchased lands lay, was commonly expended.[rr] It is true that Virginia, in 1769, asked permission to purchase a more extensive boundary; but the causes were, that the superintendant of Indian affairs, who had the absolute guidance of the Indian councils, could be conciliated only through the medium of the crown; and the British governour would have withholden his assent to any vote, levying money for the purpose of such a purchase, without the approbation of his master.

Answer to the sixth part of the second objection. The Quebec act was one of the multiplied causes of our opposition, and finally of the Revolution. Even if it had been designed to abridge the boundaries of the colonies, the right of the British parliament to do so

must be denied upon the grounds already shown. But the provision, that nothing therein contained relative to the province of Quebec should in any wise affect the boundaries of any other colony, destroys its operation with regard to those which are now required by us. [For this also we refer you to what has gone before.] Thus have we laid open the grounds of our claims to the boundaries specified in the instructions to Mr. J. Adams.

We undertook to prove in the first place, that they belonged to the thirteen Colonies. In doing this we avoided a regular and punctilious deduction of our rights because our pretensions appeared sufficiently fair, unless some defect could be discovered in them. The objections which stood foremost as being the most plausible were 1. against the North Eastern Boundary of Massachusetts, and 2^{ndly} against the claim of the United States being so extensive as the strict construction of their title papers would justify; because 1. the charters running to the South Sea were granted through mistake, and at any rate were chimerical. 2. The charters of four of the Colonies had been surrendered. 3. New York cannot maintain her right under the six nations. 4. The Proclamation abridged our limits. 5. The Treaty of Fort Stanwix militates against them, and, 6, the Quebec act contracted them. To these objections and their different branches answers have been given. We now proceed to the second point.

The second point, to wit, that the United States have succeeded as independent sovereignties to the territorial rights of the colonies.

The states claiming vacant lands before the Revolution were, 1. Connecticut, a government belonging to the governour and company; 2. Pensylvania, a government belonging to a few individuals; 3. Massachusetts, possessing an express charter as a royal government; and 4. Virginia, North Carolina, South Carolina and Georgia, which were originally proprietary governments, and afterwards became royal, but received no special charter as such.

1. Charles II. relinquishes, in his charter to Connecticut, all title to the lands therein described. Grants did not issue in his name, nor did escheats fall to him as lord paramount. The extinction therefore of British jurisdiction in Connecticut cannot vest in the king of England a territorial right which he never enjoyed before, but must strip him of every possible authority in that State.

2. We affirm, without repeating the proofs, that the State of Pennsylvania retains its provincial limits. At the Revolution one fourth of the ungranted soil was the property of Mr. J. Penn, and three fourths of W. Penn. Since that era the whole has been seized into the hands of the State. Mr. J. Penn, being a citizen of Pennsylvania, the king of Great Britain would grossly intrude on the sovereignty of the State, were he to interest himself in the restitution of his share. Prudential and equitable considerations ought always to curb licentious invasions of private right; but in the breast of the legislature resides the application of the property within its jurisdiction. An injured citizen must acquiesce in the dispensations of the sovereign authority, or seek redress from remonstrances, or the last expedient of oppressed freemen. Mr. W. Penn was a British subject at the Revolution, has continued to be so to this day, and is therefore an alien. His prince may advocate his interest without an infringement of decorum, and will probably be strenuous in his behalf. He will plead that alienage produced by the severance of an empire differs from birth under a foreign allegiance. It will not be denied, that at the time of acquiring his landed rights he was not an alien. But the Revolution has placed him in an opposite predicament. As he was then a friend, so he is now an enemy; and upon the restoration of peace, no other relation will subsist between the State of

Pensylvania and him, than what might have subsisted between that State and a subject of Russia. Since therefore he must share at the end of the war the disability to which aliens are liable upon principles of general as well as English law, as to the holding of immoveable property; since during the war it would be dangerous to tolerate remittances of its profit, specifick restitution is untenable upon any ground. Nor can compensation be solicited, although it should be absurdly thought that Pensylvania is indebted to Great Britain for favours. Has not England set us an example in this business? While she possessed territory on the coast of France, within which it was lawfu for French subjects to acquire and hold lands upon the same terms with the English, was it not her habit to wrest them from the former immediately upon a declaration of war against their prince? Did she make compensations? It is remarkable too that the concessions of Mr. Penn, the original grantee to the province, allot to settlers nine tenths of the lands within the limits of the charter. Soon should we behold a new British colony composed of the choicest tools of tyranny emerge in the very bosom of Pensylvania, were Mr. W. Penn permitted to grant the vacant country. And shall we reward him because we unnerve his faculty of doing harm?

3. At this stage of our inquiry we take for granted, that the king of Great Britain could not rightfully alter the limits assigned to Massachusetts in its new charter. Perhaps, however, it may be questioned whether Massachusetts can with propriety bottom its claims as an independent sovereignty upon a charter granted to it as a dependent colony. The charter appropriated to Massachusetts, as a society, certain limits. Let the

supreme power be modified as it may, as the society remains the same, so do its rights. The argument of the objection extended one step farther implies, that the royal patents for land granted to individuals can convey no title at this day. What is the effect of this doctrine, but that a people must groan under every tyranny, or lose every privilege. [But let us quit the cavil.] All the lands in this colony were holden of the king in free and common soccage, the well known tenure in Great Britain; and grants to individuals ran in his name. In other words, he was lord paramount. In tracing the consequences of this paramountship, analogy will justify us in pursuing as the prototype the paramountship of Great Britain. The king is lord paramount there, merely because he is king. For even the ancient barons, with their numerous vassals and formidable force, never affected this character. Accordingly, if at any time during or since the vigour of the feudal system, the immediate tenant of a baron had aliened lands to an alien, they were forfeitable to the king. The same was and is the doctrine where he committed treason. These forfeitures could not be founded on a defect of heritable blood; because it would commence in the life of the alien or traitor, and because such a defect would restore the lands to the immediate lord of whom they were holden. But the forfeiture hath always devolved on the king, whose office it was as chief magistrate to guard against the residence of persons disaffected, as aliens generally are, and as traitors ever are, to the publick good. That the qualities of king and lord paramount are inseperable, appears from these facts: 1st. A king of Great Britain upon his accession to the throne receives no special investiture of power as lord paramount, but exercises it as a derivative from that of chief magistrate. 2d. The coronation

oath relates to the functions of the lord paramount; but the sanction from religion for the due discharge of them is comprehended in that for the faithful administration of the government. 3d. Upon the abdication of James second, the throne was declared vacant; and neither his successor nor the people imagined it to be necessary to tear the paramountship from him by express words. Hence it follows, that he who ceases to be king, ceases to be lord paramount. Again, in dealing out the lands of the kingdom, the British nation have conducted themselves with respect to the king, as a bare trustee for public benefit. When William, the third, was squandering upon his minion the Duke of Portland profuse grants of land, the parliament interposed, and put a stop to them. Hence it also follows, that if George, the third, should become incapable of being their trustee, he would be also disqualified as lord paramount. If analogy be a faithful guide on this occasion, the inference is clear, that as George, the third, was obeyed in Massachusetts as king of Massachusetts, not as king of Great Britain, and has ceased to be its chief magistrate, and in the nature of the thing cannot be its trustee, he is also extinct as lord paramount. For the justness of the analogy we appeal to that clause in the new charter of Massachusetts which grants to its colonists the immunities of British subjects. We defy those who shall undertake to show that the charter placed the rights of British American subjects with regard to the paramountship, upon a different footing from those of their fellow subjects of Great Britain; and we venture to pronounce the parallelism of the cases from the identity of the tenure. We may here add another inference, that as the paramountship was an indissoluble concomitant of the chief magistracy, and the State of Massachusetts succeeds to those powers which the British king for-

merly exercised as king of that then colony, that State does also succeed to the paramountship.

4. This last division of the second point requires for its proof nothing more than a recapitulation of what has been already shown, to wit, that the proprietors could not separate the colonies of Virginia, North Carolina, South Carolina and Georgia; that the king upon the resumption of their charters succeeded to the obligations of the proprietors, not only from the nature of the contract with the people, but from his own acts and those of his governours; that these colonies became thereby royal governments standing in the same rank with Massachusetts; that consequently the king of Great Britain was lord paramount of these colonies by being the chief magistrate of each of them; and that this chief magistracy, having fallen to them, carries with it the paramountship. Upon the whole, a decisive objection exists against the mutilation of the charters running to the Mississippi according to the treaty of Paris, namely, that the principle by which they would be limited to the distance of a mile only from the river, would justify mutilations to any extent.

The third point. But if the vacant lands cannot be demanded upon the titles of individual states, they are to be deemed to have been the property of his Britannick Majesty, as sovereign of the thirteen colonies immediately before the Revolution, and to be devolved upon the United States collectively taken. In agitating the case of these lands under this head, his Britannick Majesty will be very forward in asserting that he was seized of them; so that proof will be superfluous. The character in which he was so seized was that of king of the thirteen colonies collectively taken. Being stript of this character, its rights descended to the United States for the following reasons: 1. The United States

are to be considered in many respects as one undivided independent nation, inheriting those rights which the king of Great Britain enjoyed as not appertaining to any one particular state, while he was what they are now, the superintending governour of the whole. 2. The king of Great Britain has been dethroned as king of the United States, by the joint efforts of the whole. 3. The very country in question hath been conquered through the means of the common labours of the United States.

What has heretofore been observed regards only the title of the United States. There are other considerations deserving attention. Should Great Britain retain that portion of the United States which borders on the Mississippi, the neighbourhood of her possessions will be imminently dangerous to our peace. Should she at the same time retain Canada and West Florida, or even Canada alone, by applying herself to the settlement of that country and pushing on her trade there with vigour a new nursery for her marine will speedily be established.

From a full confidence that the western territory now contended for lay within the United States, the British posts therein have been reduced by our citizens, and American government is now exercised within the same; large bounties of land have been promised to the army; and we have relied on it as an important fund for discharging the debts incurred during the war. For a considerable distance beyond the Apalachian mountains, and particularly on the Ohio, American citizens are actually settled at this day. By the surrender therefore of the western territory to Great Britain, a large number of fencible men, men too who have not been behind any of their fellow citizens in the struggle for liberty, would be thrown back within her power.

France [ss] A memorial from M^r Gerard to Congress on the 22nd of May 1779 excites in us some degree of uneasiness. At the beginning he uses these expressions, "Il est notoire que l'objet direct et essential de l'alliance, subsistante entre sa magesté tres chretienne, et les Etats Unis, est de maintenir efficacement la liberté, la souveraineté et l'indépendance absolue et illimitée des dits Etats tant en matière de gouvernement, que de commerce et par consequent les droits territoriaux inherens a la souveraineté."

He goes on to enumerate several inferences from the positions contained in the memorial among which is the following, "En reunissant les enonciations des Articles 11^e et 12^e, on voit que les succes de la guerre pouvant seuls fixer le sort des empires, il a été trouvé impossible lors de la confaction du traité de l'alliance de determiner les possessions, que les Etats Unis pourroient obtenir a la paix, qu'en consequence la garantie de la France n'a pu etre que conditionnelle et eventuelle a cet egard: qu'elle n'est tenue *maintenant* a aucune garantie particulière relativement a ces memes possessions, soit reelles soit pretendues; et que cette obligation ne commencera qu'a l'epoque a laquelle les possessions des Etats Unis auront été constatées par la cessation de la guerre."

The 11th and 12th Articles are in the following words [insert them verbatim].

A rupture then having taken place between France and England, the reciprocal Guarantee declared in the 11th Article has for a long time been in full force and effect. For although this article fixes the guarantee of the whole as the possession shall be assured to the United States at the moment of the cessation of their present war with Great Britain; yet the 12th specifies two æras at either of which the guarantee should commence, a rupture between France and Great Britain, or the termination of the war without such a rupture.

The word "*possessions*" will certainly comprehend the lands actually occupied by Individuals. For the Independence of the United States involves of necessity a territorial idea, since to guarantee the Independence of a number of men would, if they were to be expelled from their Country, have been too futile to enter into the wish of the United States, or the meaning of France. "*Possessions*" must also imply lands not in immediate occupation but granted merely to individuals. The term bears this signification in Europe, and in an infant country, like America, in which improvement cannot be coextensive with grants; but on the contrary, in which grants are made of large tracts of waste land, as an incentive to improvement,

it must particularly have this signification. The term also describes the vacant lands, which were ungranted at the Revolution. For although they were not possessed by individuals yet they were possessed by the society. In the 6th Article the Most Christian King renounces forever the *possession* of the Islands of Bermudas. In this place "*possession*" is extended to a bare right, as it cannot import actual occupancy.

How strange would it seem, had we been solicitous about Bermudas, and regardless of a territory which we always claimed, which is incorporated with our Country, and on which we counted as a source of revenue!

Had not war been waged by France with Great Britain, there was good reason why the former should not guarantee to the United States any other territory than what might be secured to them at the cessation of hostilities. The single arm of America unassisted by France might not be sufficient for the vindication of all her territorial rights. But upon a positive guarantee France would have been obliged to preserve the whole of them even by a declaration of war; a circumstance which she plainly studied to avoid, by her stipulating no aid in favor of the United States, but on the event of a war between herself and Great Britain. In actual war France could answer for the event.

Spain We cannot persuade ourselves that any opposition will be made to the claims of the United States on the part of Spain. We do not deny that she has subdued some small posts within these vacant lands; but when it is remembered, that the United States have unfolded a title, which is substantial against the King of Great Britain, that the conquests of Spain are small in themselves and diminutive indeed when compared with those of the United States, her pretensions will vanish.

There are other objects that will undoubtedly occur in the course of negotiation.

The confiscation of the property of those who preferred an adherence to the old empire rather than to follow the fortunes of the new, was founded on those principles which have been discussed. The confiscation of the property of those who have committed treason against the United States, and are since become British subjects, has a foundation in the institutes of

forfeiture in the British criminal code. Should restitution be urged in either of these cases, in defiance of the support which the measures of America derive from similar practices in England, it will be proper to represent the impossibility of making specifick restitution of the personal property; the various transfers which the real has undergone from individual to individual, the great value of which the citizens of these states have, contrary to the laws of war, been despoiled by the enemy; the still greater losses which they have sustained from their wanton havock; the burdens which the war will leave behind it; and the share which the claimants have borne in this spoliation and havock, and by the former of which they have enriched themselves far beyond their losses.

Of absentees from their country there are three classes. 1. Those who left it before the Declaration of Independence. 2. Those who left it after having become citizens. And 3. Those who were expelled.—It must be readily seen how dishonourable and troublesome a stipulation for their return would be to the governments which they have deserted; how obnoxious the persons answering to this description would be to the people at large, and especially such as have suffered from their outrages; and how much the more this stipulation is to be dreaded, as none but those who are totally devoid of both honour and sensibility would avail themselves of a privilege, which would expose them to the indignation and resentments which they had provoked. Nor is it unworthy the circumspection of his Most Christian Majesty to reflect, whether the restoration of those persons may not produce an unequal competition with his subjects in trade; many among them, besides the advantage which they possess from the knowledge of our language, having accurately informed themselves of the nature of our commerce from actual experience.

It is not improbable that the subject of commerce will, among others, be introduced into the negotiation. — The United States being, as a free and sovereign nation, the absolute masters as well of their commerce, as of their government, no claim of right can, or probably will be pretended with respect to the former by those, who relinquish such pretension with respect to the latter; but it is the wish and policy of the United States to preserve their commerce unfettered by stipulations in favor of nations, with which they are now unconnected, and particularly of that with which they are now at war. This policy cannot but coincide with the sentiments of his Most Christian Majesty, since by these means alone will be left to his allies the future opportunity of manifesting their preference of his interests to those of his enemies and rivals. — Congress do for these reasons earnestly desire and expect that his Majesty will spare no efforts which may be necessary to exclude from a Treaty of peace every article which would restrain the United States from imposing on the Trade of Great Britain any duties, restrictions or prohibitions which may hereafter be judged expedient, unless it be so far only as a relaxation in this point may be essentially necessary for obtaining peace, or the several objects above mentioned.

In this review of our former instructions we have drawn arguments from different sources, trusting to your discretion and judgment for the selection of such as are apt and seasonable, and for the addition of any others of importance.

Done &c.

Resolved, That nothing in the preceding instructions contained be construed to affect any dispute which now does, or hereafter may subsist between individual States or between the United States and an individual State concerning territory.¹

¹ This report, in the writing of Edmund Randolph, is in the *Papers of the Continental Congress*, No. 20, 1, folio 91–139. The words in brackets are in the report but not in the Journal. The following paper accompanied the report:

References to papers proper to explain the report most of which ought to be transmitted to our ministers.

- a. Anderson's history of commerce 2 vol. 17 appendix.
- b. Spotiswood's history of Scotland 483 and 2 Ander: app. 17.
- c. Treaty of Paris 1763.
- d. Treaties here enumerated in the Report.
- e. Rymer's foedera 16th Tom: p. 425.
- f. Treaty of Utrecht 1713.
- g. Grant to the Council of Plymouth 18 Nov. 1620.
- h. Commission to B. Wentworth Esq. governor of New Hampshire 13th July, 15 Geo. 2.

The report being under debate for referring the foregoing facts and observations to the secretary for foreign

Footnote—Continued.

- i. Charter to Massachusetts 7 October, 1691, and the old charter of the 4th of March, 1628, 9.
- j. Charter to Connecticut April 23, 1662.
- k. Charter to Rhode Island 8 July 1662.
- l. Grant to the Duke of York 1663–4; capitulation of Dutch in the same year; Treaty of Westminster 1674; confirmation of the Duke's grant in the same year; treaties with the five nations in 1684, 1701, 1716, 1744, 1754 and the state of claims made by New York in print.
- m. Grant to New Jersey 23 June 1664, and the act of surrender 14th August 1703.
- n. Charter to William Penn 4th March 1681.
- o. Grants to William Penn by the Duke of York 24 Aug. 1683.
- p. Grant to Lord Baltimore by Charles the first 20 June 1632.
- q. Charter to the Treasurer and company of Virginia 23 May 1609 and another Charter to the Colony 10 Oct. 1676.
- r. Charters to Clarendon et al. 1662 and 1664. Statute 2. Geo. 2 c. 34. The act of division. This cannot be found.
- s. Grant to Georgia in 1732 and the proclamation of 1763.
- t. Grant of Nova Scotia to Sir William Alexander 10 Sept. 1621.
- u. Second grant to Alexander 12 July 1625.
- v. Memorial of the English to the French Commissioners 11 January 1751 concerning Nova Scotia.
- w. Popple's map. Champlain's.
- x. English Commissaries' reply 4th Oct. 1751.
- y. *Ibidem*.
- z. Act of the Board of trade and plantations 29th April 1700.
- aa. Grant to Duke of York for Sagadahock 12 March 1663–4.
- bb. Treaties of Germain, Westminster and Breda mentioned in the Report, and the memorials which are also referred to in the Report.
- cc. The act assigning Lord Cartaret's share in 1740.
- dd. Charter to Virginia 10 April, 1606.
- ee. Charter to Virginia 12 March 1611–12.
- ff. Lawson's history of Carolina p. 256.
- gg. Instruction to M^r Gooch in 1748–9 and the letter accompanying it.
- hh. Act of the Virginia assembly in 1753 as to settlers on the Mississippi.
- ii. Act to the same purpose in 1754.
- kk. Order for lands at the fork of Ohio and Mississippi in .
- ll. Dinwiddie's proclamation in 1754.
- mm. Estimate of monies expended by Virginia for the western country.
- nn. Duke de Mirepoix's memorial to London 14 May 1755.
- oo. The Documents of New York.
- pp. Bowen's map of North America.
- qq. Treaty of Aix la Chapelle.
- rr. Treaty of Fort Stanwix in 1768.
- ss. M^r Gerard's memorial 22nd May, 1779.

affairs, to be by him digested, completed and transmitted to the ministers plenipotentiary of the United States for negotiating a treaty of peace—

A motion was made by Mr. [John] Rutledge, seconded by Mr. [Hugh] Williamson, to postpone the consideration of the report to make way for a motion, which he read in his place by way of argument.

On the question for postponing, the yeas and nays were required by Mr. [Edward] Telfair,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	no } *		Mr. Wharton,	no } *	
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Osgood,	no } no		Mr. Hanson,	ay } ay	
Jackson,	no } no		Wright,	ay } ay	
<i>Rhode Island,</i>			<i>Virginia,</i>		
Mr. Cornell,	no } no		Mr. Madison,	ay } ay	
Howell,	no } no		Bland,	ay } ay	
<i>Connecticut,</i>			Lee,	ay } ay	
Mr. Root,	ay } ay		<i>North Carolina,</i>		
Huntington,	ay } ay		Mr. Williamson,	ay } ay	
Dyer,	ay } ay		Blount,	ay } ay	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Scott,	ay } *		Mr. Rutledge,	ay } ay	
<i>New Jersey,</i>			Ramsay,	ay } ay	
Mr. Clark,	no } no		Izard,	ay } ay	
Witherspoon,	no } no		Middleton,	ay } ay	
<i>Pennsylvania,</i>			<i>Georgia,</i>		
Mr. Montgomery,	no } no		Mr. Telfair,	ay } ay	
Smith,	ay } no		Jones,	ay } ay	
Clymer,	no } no		Few,	ay } ay	
Atlee,	no } no				

So the question was lost.

A motion was made by Mr. [John] Witherspoon, seconded by Mr. [Joseph] Montgomery, “that the report be committed:”

And on the question for commitment, the yeas and nays being required by Mr. [Theodorick] Bland,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	no	} *	Mr. Wharton,	ay	} *
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Jackson,	ay	} *	Mr. Hanson,	ay	} ay
<i>Rhode Island,</i>			Wright,	ay	
Mr. Cornell,	ay	} ay	<i>Virginia,</i>		
Howell,	ay		Mr. Madison,	ay	} ay
<i>Connecticut,</i>			Bland,	ay	
Mr. Root,	ay	} ay	Lee,	ay	
Huntington,	ay		<i>North Carolina,</i>		
Dyer,	ay		Mr. Williamson,	ay	} ay
<i>New York,</i>			Blount,	ay	
Mr. Duane,	ay	} ay	<i>South Carolina,</i>		
Scott,	ay		Mr. Rutledge,	ay	} ay
<i>New Jersey,</i>			Ramsay,	ay	
Mr. Clark,	ay	} ay	Izard,	ay	
Witherspoon,	ay		Middleton,	ay	
<i>Pennsylvania,</i>			Gervais,	ay	
Mr. Montgomery,	ay	} ay	<i>Georgia,</i>		
Smith,	ay		Mr. Telfair,	no	} ay
Clymer,	ay		Jones,	ay	
Atlee,	ay		Few,	ay	

So it was resolved in the affirmative.¹

On the report of a committee, consisting of Mr. [Joseph] Montgomery, Mr. [Ezekiel] Cornell and Mr. [Theodorick] Bland, to whom was referred a letter of 12 from the Secretary

¹ The report in regard to fisheries was entered only in the manuscript Secret Journal, Foreign Affairs. Mr. Rutledge's motion to postpone its consideration, Mr. Witherspoon's motion to commit it, and the votes upon those motions, were entered in both Public and Secret Journals. Committee Book No. 186 shows that on August 5 Mr. [James] Duane, Mr. [Hugh] Williamson, Mr. [Samuel] Osgood and Mr. [James] Madison were "added to Mr. Montgomery" on this committee "vice Carroll and Randolph," and that on August 20 the report was recommitted to Mr. [John] Rutledge, Mr. [James] Duane, Mr. [John] Witherspoon, Mr. [David] Howell and Mr. [Joseph] Montgomery.

at War, covering the extract of a letter from the Commander in Chief:

The Committee to whom was referred a letter from the Secretary at War covering the extract of a letter from his Excellency the Commander in Chief and copies of two letters from Col. Willet, Beg leave to report, That from the Representation made by his Excellency General Washington of the nature of the services performed by the levies raised by the State of New York, it appears that they are nearly equal to those they would render were they incorporated with the standing Regiments of that State, and submit to the consideration of Congress the following Resolve:

Resolved, That the Secretary at War be, and he is hereby, directed to issue cloathing, from time to time, in like proportion as to the continental troops, to the two regiments of infantry raised by the State of New York, under the resolution of Congress of the 2d of April, 1781, though the continental regiments of that State are not quite completed to the establishment.

Your Committee beg leave farther to report—

That they are fully in opinion that humanity, justice, policy and even economy unitedly invite an attention to the tribes of Indians which are retained in our interest: and that the most speedy and effectual measures should be adopted for clothing them according to their own manner and customs—

The following Resolve is submitted to the consideration of Congress:

Resolved, That the commissioners of Indian affairs in the northern department ~~be requested to~~ report to Congress as soon as may be, the articles necessary to cloathe the Indians in our interests, so as to make them useful, and to appear with respect among the other tribes.¹

¹ This report, in the writing of a clerk, is in the *Papers of the Continental Congress*, No. 27, folio 179. The Secretary at War's letter is in No. 149, I, folio 575.

WEDNESDAY, AUGUST 21, 1782

On a report from the Secretary at War, to whom were referred the proceedings of a court of enquiry on a complaint against Captain Gun:

WAR OFFICE, August 20th, 1782.

SIR,

On the proceedings of a Court of Enquiry on a complaint against Captain Gunn referred to me, I beg leave to report,

Resolved, That the Secretary at War be directed to inform Major General Greene that Congress ~~approve his conduct in disapproving~~ are well satisfied with the general orders issued by him on the report of the court of enquiry, on a complaint exhibited against Captain Gun for disposing of a public horse as his own property: ~~and that Congress approve the principles on which his opinion was~~ that the principles advanced in his orders are well founded, and that an approbation of the sentiments of the court would have been to establish a precedent repugnant to reason and justice, and subversive of that order and system which gives security to public property: that General Greene be directed to order Captain Gun to replace the horse he sold with another equally good.

Resolved, That should any commissioned officer be convicted, at a general court-martial, of having sold or disposed of a public horse, ~~without proper orders from the quarter-master general for that purpose~~ it shall be considered a breach of the first article of the 12th section of the articles of war.¹

On the report of a committee consisting of Mr. [David] Howell, Mr. [Abraham] Clark, and Mr. [Samuel] Osgood, to

¹ This report is in the *Papers of the Continental Congress*, No. 149, I, folio 607. The Secretary at War's letter, dated August 16, laying before Congress the papers relative to the complaint against Captain Gunn, is on folio 603, and the inclosures on folios 591-599.

whom was referred a report of the Secretary at War, concerning Fortune Stoddard, a soldier of the Rhode Island regiment:

WAR OFFICE, August 10th, 1782.

SIR,

By the enclosed papers which I have the honor to lay before Congress, they will be informed that on the 22nd of December last a soldier of the Rhode Island Regiment killed one James Cunningham, for which act he has been tried by the laws of the State of Maryland and acquitted of murder; but found guilty of manslaughter, and is now detained in jail for costs, which amount to about 24 pounds, which sum must be discharged by the public or he will be sold to refund the expence. This I am convinced would be a real injury to the service; besides it will cost much more than that sum to procure a man in his stead to serve during the war—

I beg leave therefore to submit to the consideration of Congress the propriety of passing the following resolve.

Whereas Fortune Stoddard a soldier in the army of the United States has been tried and punished by the civil authority of the State of Maryland for an offence against the laws of that State and is now kept in custody for the fees,

~~Resolved, That the Executive of the State of Maryland be requested to discharge the said Fortune Stoddard from his confinement and charge the United States with the fees, and that the amount of the said fees be charged by the United States to the State of Rhode Island.~~¹

Resolved, That the executive authority of the State of Maryland be requested to discharge from confinement Fortune Stoddard, a soldier belonging to the Rhode Island regiment, confined for costs accrued in a late prosecution, and charge such costs to the United States, transmitting to the Secretary at War the account thereof, in order that the same may be charged to the said soldier, and deducted out of his pay.

¹ This report is in the *Papers of the Continental Congress*, No. 149, I, folios 567–570.

FRIDAY, AUGUST 23, 1782

The agents for the Commonwealth of Pennsylvania and the State of Connecticut, represent to the United States in Congress assembled, as follows:

“That having met and conferred together, and being informed that there is not any reason to hope for the attendance of Major General Greene as one of the commissioners for determining the dispute subsisting between us, and that the Hon. John Rutledge, esq. has declined serving, we have mutually appointed the Hon. Thomas Neilson, esq. of Virginia, and Welcome Arnold, esq. of Rhode Island, as commissioners in their stead; and we do pray that they, together with the other five, may be commissioned for that purpose.

Dated the 21 August, 1782.

Signed,	WILLIAM BRADFORD, JUN.	} Agents for Penn- sylvania.
	JOSEPH REED,	
	JAMES WILSON,	
	JONATHAN D. SARGEANT,	
	ELIPHALET DYER,	} Agents for Con- necticut.”
JESSE ROOT,		

The said agents also laid before Congress the following instrument of agreement:

“It is agreed between the agents for the Commonwealth of Pennsylvania and the State of Connecticut, that Congress be requested to approve the appointment by the said agents of the Hon. William Whipple, Welcome Arnold, David Brearley, Williamth Churchill Houston, Cyrus Griffin, Joseph Jones, and Thomas Neilson, esqrs. and to constitute them, or any five or more of them, a court of commissioners to hear and finally determine the dispute between the said States, relative to their respective claims and possessions, agreeably to the 9th Article of the Confederation; and that a commission be made out for them under the seal of the United States and signed by the President of Congress; that each commissioner be allowed ten dollars a day for the time he shall be employed in the said business, for his services and expences, to be paid in the first instance, one half by the State of Pennsylvania, and one half by the State of Connecticut: that the commissioners, or any five or more of them, do meet at

Trenton, in New Jersey, on Tuesday, the 12th day of November next, and have power to adjourn, from time to time, and place to place, as they shall judge it necessary, until they shall make a final decision in the said cause; and that a copy of their resolutions be transmitted to each of the said commissioners, and their attendance on the said business requested.

Dated 21 August, 1782.

Signed,

WILLIAM BRADFORD, Jr.
JOSEPH REED,
JAMES WILSON,
JONATHAN D. SARGEANT,
ELIPHALET DYER,
JESSE ROOT."

Whereupon, *Ordered*, That the secretary prepare and report the draught of a commission for the said William Whipple, Welcome Arnold, David Brearley, William Churchill Houston, Cyrus Griffin, Joseph Jones and Thomas Neilson, or any five or more of them, as commissioners or judges nominated by the states of Pennsylvania and Connecticut, to determine the dispute between the said states, agreeably to the 9th Article of the Confederation.¹

On the report of a committee, consisting of Mr. [Joseph] Montgomery, Mr. [Theodorick] Bland, and Mr. [Ezekiel] Cornell, to whom was referred a letter of 11 July, from Major General Greene:

Whereas it may occasionally become necessary for the good of the service, that the cavalry and infantry of the legionary and partizan corps should do duty sepearte, or by being detached with other troops:

Resolved, That the commanding officer of the army in which any of the legionary or partizan corps shall serve, may, when the good of the service, in his opinion, shall require it, detach either the cavalry or infantry thereof sepeartely, on occasional service, as he may think proper, to do duty by

¹ This motion, in the writing of Arthur Lee, is in the *Papers of the Continental Congress*, No. 36, I, folio 329.

themselves, or with any other troops in the army; that he may also brigade them with other troops, if in his opinion the public good require it.

Resolved, That the legionary and partizan corps shall generally be entitled to take post according to seniority, but shall be liable to such disposition as the said commanding officer shall find expedient for the good of the service; and the officers of both horse and foot shall take rank in the army according to priority of commissions.¹

The Committee [Mr. Joseph Montgomery, Mr. Edward Rutledge, Mr. Edward Telfair] to whom was referred the petition of Fran^s Wade, complaining of actions brought against him in the Delaware State, for debts contracted whilst he acted as Quartermaster for the United States, beg leave to report that the said petition, together with the resolutions of Congress on this subject of the day of be transmitted to the Executive of the State of Delaware.²

MONDAY, AUGUST 26, 1782

The Superintendent of finance and Secretary at War, to whom was referred an application of Mr. Rubsamen, having reported, that in their opinion his services as an instructor in making salt-petre are no longer needed:³

Resolved, That Congress agree to the report.

Ordered, That Mr. Rubsamen present his accounts against the United States for settlement.

BY THE UNITED STATES IN CONGRESS ASSEMBLED,

August 26th, 1782.

Ordered, That a Committee be appointed to revise the ceremonial established by Congress respecting foreign ministers and report the

¹ This, report, in the writing of Ezekiel Cornell, is in the *Papers of the Continental Congress*, No. 19, II, folio 491.

² This report, in the writing of Joseph Montgomery, is in the *Papers of the Continental Congress*, No. 19, VI, folio 133. It was passed on this day, according to the indorsement.

³ This report is in the *Papers of the Continental Congress*, No. 137, I, folio 737.

proper alterations and additions to be made thereto. The members chosen Mr. [Arthur] Lee, Mr. [Ralph] Izard, Mr. [Hugh] Williamson.¹

TUESDAY, AUGUST 27, 1782

On the report of a committee, consisting of Mr. [Ezekiel] Cornell, Mr. [Joseph] Montgomery and Mr. [Thomas] McKean, to whom was referred a letter of 11 July from the governor of Virginia to the delegates of that State:

That in their opinion it is unnecessary to continue a Garrison in either of the Towns of York or Gloucester in the State of Virginia, especially at a time when money cannot be obtained to pay for service that is indispensably necessary, and thereupon they submit the following Resolutions.—

Resolved, That the Executive ~~Council~~ of the State of Virginia be informed, that it is inexpedient to continue a garrison at either of the towns of York or Gloucester at the expence of the United States.

Resolved, That the said ~~Council~~ Executive be requested to transmit to the Superintendent of finance, a full state of facts relating to the expence that has already arisen respecting the aforesaid garrisons, with the accounts and vouchers, that such order may be taken thereon as shall appear just.²

¹ This order, in the writing of one of the clerks of the Secretary's office, is in the *Papers of the Continental Congress*, No. 25, II, folio 225. According to Committee Books No. 186 and No. 191, a report was delivered May 6, 1783, and recommitted. Another report was delivered June 10 and adopted June 11.

On this day, according to the indorsement, a letter of August 23, from the Superintendent of Finance as Agent of Marine, respecting a claim of Francis Maxwell, was read. It is in No. 137, I, folio 729, and was committed to Mr. [James] Duane, Mr. [David] Howell and Mr. [Ralph] Izard.

Also, a letter from General Washington dated Headquarters, August 19, enclosing a letter from Sir Guy Carleton. It was referred to Mr. [John] Rutledge, Mr. [Thomas] McKean, Mr. [James] Duane, and is in No. 152, X, folio 679. It is printed in the *Writings of Washington* (Ford), X, 69. See also *post* October 15.

Also, a letter from Major General Horatio Gates, dated Philadelphia, August 24. It is in No. 154, II, folio 365.

² This report, in the writing of Ezekiel Cornell, is in the *Papers of the Continental Congress*, No. 20, II, folio 273.

The Committee consisting of M^r. [James] Duane, M^r. [David] Howell and Mr. [Ralph] Izard to whom was referred the report of the Agent of Marine respecting a demand of Francis Maxwell beg leave to submit the following report.

That it appears to your Committee that the Passengers on board the *Symetry* Transport a flag Ship commanded by Francis Maxwell and who had been prisoners of war in England were supplied with the same allowance of Provisions as is given to British Soldiers according to the rules established at the British victualling office from the 23^d day of June when they embarked to the 2^d day of July last. That on the last mentioned day the said passengers in a body two hundred and seventeen in number made a demand of the said Captain Maxwell for more provisions than the stated allowance declaring that if he did not comply they would take it by force. That Captain Maxwell thereupon issued to the said passengers additional quantities of provisions beyond what he could justify by the rules of the British victualling office a copy of which was given for his direction and produced to your Committee; and that those additional allowances were continued until the arrival of the said Flag Ship at this port, and constitutes the charge for which the said Maxwell now solicits payment from the United States.

Upon this state of facts your Committee are of opinion that the honor of the United States requires that payment be made for the said additional allowance upon proof and settlement of the account, such allowance having been issued by the said Maxwell contrary to his instructions and only in compliance with a demand which he could not oppose.—

Your Committee therefore submit the following resolution.—

Resolved, That the Superintendant of Finance be directed to take order for liquidating and paying the demand of the said Francis Maxwell as explained in the preceding state of Facts.¹

The Committee of the Week, [Mr. John Taylor Gilman, Mr. Abraham Clark, Mr. Benjamin Huntington] report,

That the memorial and petition of a number of inhabitants and adventurers on that tract or territory of land on the western waters emptying into the Ohio River commonly called and known by the name of Kentucky settlement, be read in Congress and filed in the office of the Secretary of Congress.

¹ This report, in the writing of a clerk, is in the *Papers of the Continental Congress*, No. 19, IV, folio 363. It was on a letter of August 23 from the Agent of Marine and was according to the indorsement, recommitted on this day.

That the petition of officers in the Staff Department in the State of New York, lie on the table.¹

WEDNESDAY, AUGUST 28, 1782

Mr. [Daniel] Carroll, a delegate for Maryland, and Mr. [Ezra] L'Hommedieu, a delegate for New York, attended, and took their seats.

The secretary, pursuant to order, prepared the draught of a commission, which was agreed to as follows:

THE UNITED STATES IN CONGRESS ASSEMBLED.

To all whom it may concern:

Whereas the 9th Article of the Confederation provides that "the United States in Congress assembled shall be the last resort on appeal, in all disputes and differences now subsisting, or that hereafter may arise, between two or more states concerning boundary, jurisdiction, or any other cause whatever, which authority shall always be exercised in the manner following: whenever the legislature or executive authority, or lawful agent of any State in controversy with another, shall present a petition to Congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of Congress, to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons, each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen, and from that number, not less than seven, nor more than nine names, as Congress shall direct, shall, in the presence of Congress, be drawn out by lot, and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges to hear and finally determine the controversy; so always as a major part of the judges, who shall hear the cause, shall agree in the determination; and if either party shall neglect to attend at the

¹ This report, in the writing of Abraham Clark, is in the *Papers of the Continental Congress*, No. 32, folio 389. The indorsement indicates that it was acted on this day.

day appointed, without shewing reasons which Congress shall judge sufficient, or being present, shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment or sentence of the court to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of ¹ such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being in either case transmitted to Congress and lodged among the acts of Congress for the security of the parties concerned: provided that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the State where the cause shall be tried, "well and truly to hear and determine the matter in question according to the best of his judgment, without favour, affection or hope of reward:" provided also, that no State shall be deprived of territory for the benefit of the United States. And whereas, the president and supreme executive council of the State of Pennsylvania did, on or about the 3d day of November, in the year of our Lord one thousand seven hundred and eighty-one, present a petition to the United States in Congress assembled, stating "that a controversy has long subsisted between the said State of Pennsylvania and the State of Connecticut, respecting sundry lands lying within the northern boundary of the State of Pennsylvania, and praying for a hearing in pursuance of the 9th Article of the Confederation;" whereupon notice was given to the State of Connecticut, and a day was assigned for the appearance of the parties by their lawful agents, at the place in which Congress should then be sitting: and whereas, in pursuance of the said notice, the states of Pennsylvania and Connecticut appearing before Congress by their lawful agents, to wit, on the 16th day of July last, they were directed to appoint by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question agreeably to the 9th Article of the Confederation. And whereas, the said agents, by two instruments of writing, the one dated the 8th, and the other the 21st of the present month of August, both signed by them and lodged among our archives, have certified, "that in pursuance of the said direction, they have met and conferred together and by joint consent have appointed the following gentlemen

¹ From this point the entries in the Journal are by George Bond.

as commissioners to constitute a court for hearing and determining the matter in question between the said states, that is to say, the Hon. William Whipple, esq. of New Hampshire; the Hon. Welcome Arnold, esq. of Rhode Island; the Hon. David Brearley and William Churchill Houston, esqrs. of New Jersey; the Hon. Cyrus Griffin, Joseph Jones and Thomas Neilson, esqrs. of Virginia; any five or more of whom to constitute a court and have authority to proceed and determine the matters in difference between the said states." And by another instrument of agreement, bearing date the 21st day of August, 1782, and signed by them, the said agents, and lodged among our archives, have, among other things, requested Congress to approve the appointment, by the said agents, of the said Hon. William Whipple, Welcome Arnold, David Brearley, William Churchill Houston, Cyrus Griffin, Joseph Jones, and Thomas Neilson, esqrs. and to constitute them, or any five or more of them, a court of commissioners to hear and finally determine the dispute between the said states relative to their respective rights, claims and possessions, agreeably to the 9th Article of the Confederation; and that a commission be made out for them under the seal of the United States in Congress assembled, and signed by the President of Congress; and that the commissioners, or any five or more of them, do meet at Trenton, in New Jersey, on Tuesday the twelfth day of November next, and have power to adjourn, from time to time, and place to place, as they shall judge it necessary, until they shall make a final decision in the said cause. Now be it known, that in virtue of the authority vested in us as aforesaid, and in consequence of the before mentioned appointment and agreement, we have caused these our letters patent to be issued, constituting and declaring, and we do hereby constitute and declare the said William Whipple, Welcome Arnold, David Brearley, William Churchill Houston, Cyrus Griffin, Joseph Jones and Thomas Neilson, or any five or more of them, to be a court of commissioners, with all the powers, prerogatives and privileges incident or belonging to a court, to meet at Trenton, in the State of New Jersey, on Tuesday the twelfth day of November next, to hear and finally determine the controversy between the said ~~Commonwealth~~ State of Pennsylvania and the State of Connecticut, so always as a major part of the said commissioners, who shall hear the cause, shall agree in the determination; and if any of the parties shall refuse to submit to the authority of the said court, or to appear or defend their claim or cause, the said court shall nevertheless proceed to pronounce sentence or judgment, and the judgment or sentence of the court shall be final

and conclusive; the judgment or sentence and other proceedings being in either case transmitted to Congress and lodged among the acts of Congress, for the security of the parties concerned; provided that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the State where the cause shall be tried, "well and truly to hear and determine the matter in question according to the best of his judgment, without favour, affection or hope of reward": provided also, that no State shall, by their said judgment, be deprived of territory for the benefit of the United States; and in case a sufficient number of the commissioners do not meet on the day assigned to form a court, we do hereby authorise and empower any one or more of the said commissioners, to adjourn from day to day, or from time to time, until a number meet sufficient to make a court; and we do hereby authorise and empower the said court to adjourn from time to time, and place to place, as they shall judge it necessary, until they shall make a final decision in the said cause. In testimony whereof, we have caused these our letters and commission to be made patent.

Given under our seal, and signed by his Excellency John Hanson, President, in Congress, this 28th day of August, one thousand seven hundred and eighty-two, and in the seventh year of our independence.¹

Ordered, That notice be sent to each of the commissioners above-mentioned, to meet at the time and place appointed.

WAR OFFICE, *August 27th, 1782.*

SIR,

By the resolves of Congress of the 8th of April last the Paymaster General is to pay on the warrants of the Secretary at War, the pay and rations of the Army, and on warrants from the Commander in Chief, and the Commanding officer of the Southern Army all contingent expences.

No provision is made for the payment of such contingent expences as may be incurred in the absence of the Commander in Chief or the Commanding officer of the Southern Army—as is the case of Captain de Bert of Colonel Armand's Legion, who is now here on public business, and whose account I have the honor to enclose.

I am myself so convinced of the necessity of his absence from his Corps, and the justice of his charge, that had I supposed myself authorised to have ordered payment I should have done it, and not have troubled Congress with so inconsiderable an application.

¹ A copy of this commission, in Thomson's writing, is in the *Papers of the Continental Congress*, No. 49, folio 85.

I wish their directions in this matter, and what mode in like cases shall in future be pursued.¹

THURSDAY, AUGUST 29, 1782²

On the report of a committee, consisting of Mr. [John] Rutledge, Mr. [Joseph] Montgomery and Mr. [Samuel] Osgood, appointed to confer with the Superintendent of finance respecting the providing packets:

The Committee do report, That the ship *Washington* may be bought on reasonable and advantageous terms, and is, as your Committee are well informed, a swift sailing vessel fit for a Packet to and from Europe. They therefore recommend, that the Superintendent of Finance be directed to take order for purchasing and employing her for that purpose.³

Resolved, That the Superintendent of finance be directed to take order for purchasing and employing the ship *Washington* for the purpose of a packet to and from Europe.

The Secretary at War, to whom was referred a memorial of Lieutenant Colonel Antil, reported, that by the reform of the army which will take place on the first day of January next, Lieutenant Colonel Antil will become a supernumerary officer and must then retire, and as his services in the intermediate time may be dispensed with, and the indulgence he solicits may without injuring the public interest be granted, that it be resolved, that Lieutenant Colonel Antil be permitted to retire from service with the emoluments granted to retiring officers by the resolutions of Congress of the 3 and 21 of October, 1780.⁴

¹ This report is in the *Papers of the Continental Congress*, No. 149, I, folio 615. It was referred, the indorsement states, to Mr. [Ezekiel] Cornell, Mr. [Samuel John] Atlee, Mr. [Daniel] Carroll, and the Secretary at War was ordered "to take order in the case of Captain de Bert."

² Here Charles Thomson resumes the entries in the Journal.

³ This report, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 26, folio 343.

⁴ This report is in the *Papers of the Continental Congress*, No. 149, I, folio 623. The memorial of Colonel Edward Antill, dated March 4, 1782, is on folio 619, and, according to the indorsement, was referred to the Secretary at War on August 22.

A motion was made by Mr. [Samuel John] Atlee, seconded by Mr. [Ezekiel] Cornell, that the report be referred back to the Secretary at War to take order,

And on the question to agree to the motion, the yeas and nays being required by Mr. ~~Clark~~ [David] Howell,

<i>New Hampshire,</i>			<i>Delaware,</i>	
Mr. Gilman,	ay } *		Mr. Wharton,	ay } *
<i>Massachusetts,</i>			<i>Maryland,</i>	
Mr. Osgood,	no } div.		Mr. Hanson,	ay } ay
Jackson,	ay }		Wright,	ay }
<i>Rhode Island,</i>			<i>Virginia,</i>	
Mr. Cornell,	ay } div.		Mr. Madison,	ay }
Howell,	no }		Bland,	no } ay
<i>Connecticut,</i>			Lee,	ay }
Mr. Huntington,	ay } ay		<i>North Carolina,</i>	
Dyer,	ay }		Mr. Williamson,	no } no
<i>New York,</i>			Blount,	no }
Mr. Duane,	ay } ay		<i>South Carolina,</i>	
L'Hommedieu,	ay }		Mr. Rutledge,	ay }
<i>New Jersey,</i>			Ramsay,	ay }
Mr. Clark,	no } no		Izard,	ay } ay
Condict,	no }		Gervais,	ay }
Witherspoon,	ay }		Middleton,	ay }
<i>Pennsylvania,</i>			<i>Georgia,</i>	
Mr. Montgomery,	no } no		Mr. Telfair,	ay } *
Smith,	no }			
Atlee,	ay }			

So the question was lost.

On the question to agree to the report, the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>		<i>Connecticut,</i>	
Mr. Gilman,	ay } *	Mr. Huntington,	ay } div.
<i>Massachusetts,</i>		Dyer,	no }
Mr. Osgood,	no } div.	<i>New York,</i>	
Jackson,	ay }	Mr. Duane,	ay } ay
<i>Rhode Island,</i>		L'Hommedieu,	ay }
Mr. Cornell,	no } no		
Howell,	no }		

<i>New Jersey,</i>			<i>North Carolina,</i>		
Mr. Clark,	no	} ¹ no	Mr. Williamson,	no	} no
Condict,	no		Blount,	no	
Witherspoon,	no		<i>South Carolina,</i>	Mr. Rutledge,	ay
<i>Pennsylvania,</i>			Ramsay,	no	
Mr. Montgomery,	no	} no	Izard,	ay	
Smith,	no		Gervais,	ay	
Atlee,	ay		Middleton,	ay	
<i>Delaware,</i>			<i>Georgia,</i>		
Mr. Wharton,	ay	} *	Mr. Telfair,	ay	} *
<i>Maryland,</i>					
Mr. Hanson,	ay	} ay			
Wright,	ay				
<i>Virginia,</i>					
Mr. Madison,	ay	} ay			
Bland,	no				
Lee,	ay				

So it passed in the negative.

FRIDAY, AUGUST 30, 1782

On motion of Mr. [Joseph] Montgomery, pursuant to a resolution of the general assembly of Pennsylvania,

Resolved, That a committee be appointed to confer with a committee of the general assembly and a committee of the supreme executive council of Pennsylvania, on the present critical situation of affairs on the frontiers:

The members, Mr. [Daniel] Carroll, Mr. [John] Witherspoon, and Mr. [James] Duane.³

A memorial from the general assembly of Pennsylvania, was read, respecting the payment of interest on money lent to the United States, and the settlement and payment of

¹ The rest of the vote is entered in the Journal by George Bond.

² On this day, according to the indorsement, a resolution of the House of Delegates of Virginia of July 2, 1782, respecting old continental money, was referred to the Superintendent of Finance to report. It is in the *Papers of the Continental Congress*, No. 75, folio 371.

³ The resolve of the general assembly of Pennsylvania is in the *Papers of the Continental Congress*, No. 69, II, folio 409.

debts due to the inhabitants of that State by the United States.

Ordered, That it be referred to a grand committee, consisting of a member from each State.¹

[Motion Respecting the Value of Lands in the Several States.]

That it be an Instruction to said Com^{ee} to insert in the report a Clause assuring the Legisl. of Pensylvania that Congress will as soon as possible it can be devised direct a mode for Estimating the Value of the Lands, in the several States and of the Building and Improvem^{ts} thereon, in order that requisitions may be made on the respective States for their Quotas according to the said valuation of the public debt agreeable to the ——— article of the Confedⁿ; and that this subject is now under consideration of a grand Com^{ee}.²

TUESDAY, SEPTEMBER 3, 1782

On the report of a committee, consisting of Mr. [Ezekiel] Cornell, Mr. [Samuel] Osgood, Mr. [Ralph] Izard, Mr. [Theodorick] Bland, and Mr. [James] Duane, appointed to consider and report the most just and practicable means of reducing the expenditures of the United States in the several departments:

Resolved, That all resolutions heretofore passed respecting the pay and emoluments of the field commissary of military stores, his deputies, conductors and clerks, be, and they hereby are repealed.

Resolved, That the pay and emoluments of the field commissary of military stores shall be fifty dollars per month, two rations per day, forage for two saddle horses, and one bat horse. He shall also be allowed six dollars and two-

¹ This memorial, dated August 28, is in the *Papers of the Continental Congress*, No. 69, II, folio 413. According to Committee Book No. 186, the report of the Grand Committee on this memorial was received and on November 1 was recommitted to Mr. [Daniel] Carroll, Mr. [James] McKean and Mr. [David] Howell. On November 12, a second memorial from Pennsylvania was referred to the same committee, who made a report November 18.

² This undated motion in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 36, IV, folio 361.

thirds of a dollar per month for a servant, for whom he shall be entitled to draw one ration per day and the cloathing allowed to a private soldier:

That the pay and emoluments of a deputy field commissary of military stores for the southern army, shall be forty dollars per month, two rations per day, forage for two saddle horses and one bat horse. He shall also be allowed six dollars and two-thirds of a dollar per month for a servant, for whom he shall be entitled to draw one ration per day and the cloathing allowed to a private soldier.

Resolved, That the pay and emoluments of the deputy field commissary of military stores ~~with the main army and~~ at West Point, shall be forty dollars per month and two rations per day.

That the pay and emoluments of the conductors or clerks shall be thirty dollars per month and one ration per day.

Resolved, That there shall be one field commissary of military stores and two conductors or clerks, for the main army in the field; one deputy field commissary of military stores and two conductors or clerks for West Point; one deputy field commissary of military stores and two conductors or clerks, for the southern army; and one conductor for the post at Fort Pitt; who shall be appointed by the commanding officer of the artillery, with the approbation of the Commander in Chief; excepting for the southern army, in which department the appointment shall be made by the commanding officer of artillery there, with the approbation of the commanding officer of that department.¹

On motion of Mr. [David] Ramsay, seconded by Mr. Izard [William] Few,

Whereas it is expedient and at the present time practicable to extend the benefits of the Post Office through North Carolina, South Carolina and Georgia, in which States for some time past the regular

¹ This report, in the writing of Samuel Osgood, is in the *Papers of the Continental Congress*, No. 27, folio 181.

line of communication has been interrupted by the invasion of the enemy, It is therefore

Resolved, That the Post Master General be and he is hereby directed to reestablish Post Offices through the above mentioned states and it is further

Resolved, That the reasonable expences of the postmaster general, or of some trusty person in his department appointed by him, in travelling to and from Georgia on the business of the Post Office, shall be defrayed by the United States.¹

The committee, consisting of Mr. [Noble Wimberly] Jones, Mr. [Abraham] Clark, and Mr. [Samuel] Osgood, to whom was referred a letter of the 24 June last from Thomas Edison, delivered in a report; Whereupon,

The Committee to whom was referred the letter of Tho^o Edison report,

That the letter of Thomas Edison of the 24th June, be referred to the Superintendant of Finance to take measures thereon conformable to the Resolution of Congress of the 23^d of April last, in favor of said Edison, and report to Congress the amount of the sums advanced pursuant to said resolution.²

On motion of Mr. [Abraham] Clark, seconded by Mr. ~~Wright~~ [Daniel] Carroll,

Resolved, That the Superintendant of finance be, and he is hereby, directed to advance to Thomas Edison, at the rate of five hundred dollars per annum, to be paid monthly, to commence the 23 day of April last, in compliance with the resolution of that day, including what he may have received in consequence thereof; the said allowance to continue so long as the same may be necessary for his support, not exceeding one year.³

¹ This motion, in the writing of David Ramsay, is in the *Papers of the Continental Congress*, No. 36, I, folio 371.

² This report, in the writing of Abraham Clark, is in the *Papers of the Continental Congress*, No. 36, I, folio 373.

³ This motion, in the writing of Abraham Clark, is in the *Papers of the Continental Congress*, No. 36, I, folio 367.

~~On the report of a committee consisting of Mr. [Samuel] Osgood, Mr. [John] Rutledge and Mr. [James] Madison, appointed to confer with the agent of Marine~~

On motion of Mr. [Samuel] Osgood, seconded by Mr. [Hugh] Williamson,

Whereas the *Magnifique*, a 74 gun ship belonging to the fleet of his Most Christian Majesty, commanded by the Marquis de Vaudreuil, has been lately lost by accident in the harbor of Boston, and Congress are desirous of testifying on this occasion to his Majesty, the sense they entertain of his generous exertions in behalf of the United States:

Resolved, That the agent of marine be, and he is hereby, instructed to present the *America*, a 74 gun ship, in the name of the United States, to the Chevalier de la Luzerne, for the service of his Most Christian Majesty.¹

The Committee of the Week [Mr. John Taylor Gilman, Mr. Abraham Clark, Mr. Benjamin Huntington], having considered the memorial of John Banks, a Conductor of Military Stores, in which he requests that compensation may be made him for the depreciation of the currency, Report

That the memorial lie on the table until some general order is taken respecting officers in similar circumstances.²

The Committee [Mr Thomas McKean, Mr David Ramsay, Mr Benjamin Huntington, Mr Jonathan Jackson, Mr Edward Telfair] to whom the letter from the Superintendent of Finance dated the 2nd August was referred do now report,

That the third Class of the United States Lottery was drawn on the 29th day of April 1780; that the fortunate adventurers at that time renewed their tickets in the fourth class, and the remaining tickets, which were sold, were chiefly purchased before the month of July following, that the depreciation of the paper bills of credit emitted by Congress continued nearly the same from the 18th March,

¹ This motion, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 28, folio 233.

² This report, in the writing of John Taylor Gilman, is in the *Papers of the Continental Congress*, No. 32, folio 391. The indorsement states that it was passed on this day. The memorial, dated West Point, August 13, 1782, of John Banks, is in No. 42, I, folio 290.

1780, until the 1th day of July following, and was about forty for one compared with gold and silver. Your Committee are of opinion, if there should be any mistake with regard to the true depreciation, it ought to be in favor of the adventurers, who paid specie for their tickets in the first class, and nearly the same in the second class, and only received the depreciated currency for their prizes. They further report, that there are 26,000 prizes drawn in the fourth Class of 50 dollars each, which must be forthwith paid, except about 10,000 of them, which were drawn by the United States. Whereupon the Committee have agreed to propose the following resolutions, to wit:

That all the prizes drawn in the fourth Class of the United States Lottery be reduced to specie, by allowing one dollar for every forty drawn as prize, and that the respective Loan officers issue certificates for all prizes above fifty dollars in the names of the fortunate adventurers for the money by them respectively drawn, payable, with the annual interest of six per centum, at the expiration of five years from the sixth day of April last (being the last day of drawing the said class) at the Loan office of the State where the said adventurers respectively reside; that the said certificates be provided, under the direction of the Treasurer of the United States, and signed by him, and countersigned by the Loan officer, who shall issue them; that the interest thereon shall be paid annually at the said respective Loan offices; and that all prizes of fifty dollars shall be paid to the bearers of the tickets drawing such prize, by the Commissioners of the Loan offices where they respectively reside, upon application made and without any deduction. That the Superintendent of finance provide twenty thousand dollars, and cause the same to be deposited in the Loan offices of the respective States in such proportions as he shall think proper, for the discharging the prizes last mentioned.¹

¹ This report, in the writing of Thomas McKean, is in the *Papers of the Continental Congress*, No. 137, II, folio 67. According to the indorsement, it was delivered on this day, and read; and on November 1 it was referred to the Superintendent of Finance.

On this day, as the indorsement indicates, was read a letter from General Washington, dated August 28. It was referred to Mr. [Theodorick] Bland, Mr. [James] Duane, Mr. [Ezekiel] Cornell. It is in No. 152, X, folio 747.

WEDNESDAY, SEPTEMBER 4, 1782

On the report of a grand committee, consisting of a member from each State:

The grand Committee report

That it is their opinion that the western lands if ceded to the U. S. might contribute towards a fund for paying the debts of these States.

Resolved, That one million two hundred thousand dollars be quotaed on the states, as absolutely and immediately necessary for payment of the interest of the public debt; and that it be recommended to the legislatures of the respective states, to lay such taxes as shall appear to them most proper and effectual for immediately raising their quotas of the above sum.

~~That the States be informed that their punctual compliance with this requisition is so absolutely necessary that the Superintendant of Finance will be directed to draw bills upon the treasurer of each State to the amount of their quota to be presented for~~
 Rejected ~~acceptance at months payable at months out of~~
~~the taxes that may be collected for this purpose and that the creditors of the U. States who reside in each State shall in preference to others receive the bills upon the treasurer of that State so far as the demand and quota shall correspond.~~

That it be recommended to the several States to impose a land tax of one dollar for every 100 acres of land, a poll tax of half a dollar on all free males between 16 and 21 years of age, except such as are in the Federal army or such as are by wounds or otherwise unfit for service, a dollar on all free males between 21 and 60 except as aforesaid, and half a dollar on all male slaves between 16 and 60 years of age; also an excise of one eighth part of a dollar per gallon on all distilled spirituous liquors, and to appropriate the money to arise therefrom to the payment of the debts of the United States.¹

Resolved, That the money so raised in each State shall be applied towards paying the interest due on certificates issued

¹ This report, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 26, folios 353 and 354. A copy by Charles Thomson is on folio 355.

from the loan-office of such State, and other liquidated debts of the United States contracted therein, before any part thereof shall be paid into the public treasury.

Ordered, That the foregoing resolutions be referred to the grand committee to assess and report the quota of each State.

Resolved, That it be earnestly recommended to the several states to impose and levy a duty of 5 per cent. ad valorem, at the time and place of importation, on all goods, wares and merchandize of foreign growth and manufacture, which may be imported into the said States respectively, except goods of the U. S. or any of them; and a like duty on all prizes and prize goods condemned in the Court of Admiralty of such States; that the money arising from such duties be paid into the Continental Treasury, to be appropriated and applied to payment of the interest and sinking the principal of the money which the U. S. have borrowed in Europe, and of what they may borrow, for discharging the arrears due to the Army, and for the future support of the war, and to no other use or purpose whatsoever. That the said duties continue for 25 years, unless the debts abovementioned shall be discharged in the mean time. In which case they shall cease and determine. That the money arising from the said duties and paid, by any State, into the Continental Treasury be passed to the credit of such State, on account of its quota of the debt of the United States.¹

[Motion: That the Several States pass laws for levying Taxes]

That it be also recommended to the Legislatures of the Several States, as a measure absolutely necessary for establishing public Credit, to Enact Laws for Levying a Tax of dollars in specie or other money Equivalent, to be paid into the ~~Treasury of the United States~~ Continental Treasury and applied solely to the payment of the Principal and Interest of money Loaned or which may be Loaned by the United States and other public debts; and by said Laws continue such Taxes as a permanent fund for the above purposes, in

¹ This resolution, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 36, II, folio 101. It is undated. The following undated motion, in the writing of Nathaniel Gorham, is on folio 103 and appears to belong to this period:

~~Voted that congress will on every~~ *Resolved*, That each Tuesday and Thursday in every week be assigned for the consideration of the finances of the United States and for devising means for the restoration of publick credit until Congress come to some determination thereon.

aid to the duties and imposts before recommended until the principal and interest of all public debts are fully paid and discharged.

That the said sum of dollars to be raised annually for the above purposes be Levied in the several States in the proportions following viz:

New Hampshire
Massachusetts¹.

THURSDAY, SEPTEMBER 5, 1782

Mr. J[oseph] Jones, a delegate for Virginia, attended, and took his seat.

The committee, consisting of Mr. [John Taylor] Gilman, Mr. [David] Ramsay, Mr. [Silas] Condict, Mr. [Thomas] Smith, and Mr. [Eliphalet] Dyer, appointed pursuant to the resolution of the 17 June, 1782, to enquire fully into the department of the Post Office, and to report the result of their enquiries, report as follows:

“That Mr. Hazard has held the office of Postmaster General for six months previous to the first day of August last, in which time he has received eight hundred dollars by order of the Superintendant of Finance to defray extraordinary expences of printing Post Office books, procuring portmanteaus, &c. which he found to be wanting when he came into office. That he has drawn out his accounts quarterly and informs that the one ending the first day of May last was delivered to the Comptroller of Accounts on the second day of that month, and as he understands has been passed upon and is now lodged with the Register; that as the printing was not finished there remained a balance upon that account due to the United States, which Mr. Hazard has transferred to their credit in his account ending the first day of August last. That upon examining this account the committee find that a balance appears to be due to the United

¹ This motion, undated, in the writing of Abraham Clark, is in the *Papers of the Continental Congress*, No. 36, IV, folio 355.

States upon the transactions of the last six months, of 202 $\frac{1}{3}$ dollars, which the Postmaster General thinks will remain after defraying all the charges of the Department, exclusive of the extraordinary expences of printing Post Office books, &c. since his appointment, including the officers' salaries, but as several of his deputies' accounts have not yet come in, this cannot be exactly ascertained; that there is a further sum of 194 $\frac{1}{3}$ continental paper dollars of the old emissions and 44 dollars emitted pursuant to the resolution of March 18, 1780, in the hands of the Postmaster General, which he has received for balances due upon accounts prior to his appointment." The committee farther report that "from the information given them by Mr. Hazard it appears that he has reduced the expence of post-riding so as to save at the rate of three hundred and fifty pounds Pennsylvania currency per annum; and that he has directed the establishment of posts from Petersburg in Virginia to Edenton in North Carolina upon a plan which will prevent any expence to the United States for those posts at least for one year, and he expects soon to set posts a going from thence to Newbern upon a similar plan."¹

The Committee [Mr. Daniel Carroll, Mr. John Witherspoon and Mr. James Duane] appointed to confer with the Committees of the Supreme Executive and the General Assembly of the State of Pennsylvania, Report,

That your Committee on the said conference were informed that the British and savages have lately made frequent irruptions on the frontiers of Pennsylvania, and committed most barbarous murders, and other outrages on the inhabitants and their property, and that to prevent further desolation it is necessary that active and vigorous measures for checking and chastising the Enemy be formed without loss of time. And that they have for this purpose sent a deputation of their own body to confer with the Commander in Chief. That there are a number of recruits for the battalions of the said State in

¹ A copy of this report is in the *Papers of the Continental Congress*, Reports of Committees, No. 188, folio 2. The report, in the writing of John Taylor Gilman, is in No. 61, 517.

the Continental lines under orders to join the Southern army. That the joint Committees submitted to your Committee whether under the prospect of a speedy evacuation of Charles Town, it would be essential to the public service to march the said recruits to the southward especially as they might be advantageously and immediately employed to oppose the operations of the savages. Lastly they represented that if it should be conceived by the Commander in Chief that the said recruits might be employed more advantageously on the service before mentioned, and that it would be inexpedient to march them to the southward at this juncture, he is nevertheless restrained from exercising his discretion by the acts of Congress of the 20th Feb^r. and 19th March 1781, and they therefore further submitted it whether Congress under these circumstances would not think it advisable to repeal the said resolution, that the Commander in Chief might be at liberty to employ the said recruits in such manner as he should think most conducive to the public good.

Whereupon your Committee submit the following resolve—

Resolved, That the Commander in Chief be authorised to employ the said recruits in such manner as he shall judge to be most conducive to the public service.¹

On motion of Mr. [Thomas] Smith, seconded by Mr. [Samuel John] Atlee,

Resolved, That the Commander in Chief be authorised to employ that part of the Pennsylvania line now in that State, in such manner as he shall judge most conducive to the public good, the resolutions of the 20 February and 19 March, 1781, notwithstanding.²

On motion of Mr. [John] Rutledge, seconded by Mr. [John] Witherspoon,

Ordered, That copies of the estimates of the domestic debt of the United States, laid before Congress by the Superintendent of finance, and an extract of his letter on that subject, be transmitted to the several states with the requisition of yesterday.

¹ This report, in the writing of Daniel Carroll, is in the *Papers of the Continental Congress*, No. 20, II, folio 139. According to the indorsement, it was delivered September 3, and "Thursday next assigned."

² This motion, in the writing of Thomas Smith, is in the *Papers of the Continental Congress*, No. 36, I, folio 369.

The order of the day being called for, to take into farther consideration the report of the grand committee, and the following proposition, part of the report, being under debate, viz.

“That it is their opinion that the western lands, if ceded to the United States, might contribute towards a fund for paying the debt of these states.”

A motion was made by Mr. [Theodorick] Bland, seconded by Mr. [Arthur] Lee, to add, “and therefore resolved, that Congress do accept the cession of territory made to them, by the State of Virginia, by their act bearing date 2 January, 1781, by the State of New York on the 1 March, 1781, and by the State of Connecticut in October, 1780, with the conditions therein named.”

This amendment being objected to as out of order, and the debate turning on a question of order:

A motion was made by Mr. [James] Duane, seconded by Mr. [Thomas] McKean, that the farther consideration of the report of the grand committee be postponed till tomorrow, to make way for the report of a committee on a letter from General Washington.

And on the question for postponing, the yeas and nays being required by Mr. [Arthur] Lee,

<i>New Hampshire,</i>		<i>New Jersey,</i>	
Mr. Gilman,	ay } *	Mr. Clark,	ay } ay
<i>Massachusetts,</i>		Condict,	ay } ay
Mr. Osgood,	ay } *	Witherspoon,	ay } ay
<i>Rhode Island,</i>		<i>Pennsylvania,</i>	
Mr. Cornell,	ay } div.	Mr. Montgomery,	ay } ay
Howell,	no } div.	Smith,	ay } ay
<i>Connecticut,</i>		Clymer,	ay } ay
Mr. Huntington,	ay } div.	Atlee,	ay } ay
Dyer,	no } div.	<i>Delaware,</i>	
<i>New York,</i>		Mr. McKean,	ay } ay
Mr. Duane,	ay } ay	Wharton,	ay } ay
L'Hommedieu,	ay } ay		

<i>Maryland,</i>			<i>South Carolina,</i>		
Mr. Hanson,	ay	}	Mr. Rutledge,	ay	}
Carroll,	ay		Ramsay,	ay	
Wright,	ay		Izard,	ay	
<i>Virginia,</i>			Gervais,	ay	
Mr. Bland,	no	}	Middleton,	no	
Lee,	no		<i>Georgia,</i>		
<i>North Carolina,</i>			Mr. Telfair,	ay	}
Mr. Williamson,	ay		Jones,	ay	
Blount,	ay		Few,	ay	

So it was resolved in the affirmative.

The report of a committee, consisting of Mr. [Theodorick] Bland, Mr. [James] Duane and Mr. [Ezekiel] Cornell, to whom was referred a letter of the 26 of August, from the Secretary at War, and also a letter from General Washington, relative to a cartel, was taken into consideration and some progress made therein.¹

FRIDAY, SEPTEMBER 6, 1782

Congress resumed the consideration of the report of the committee relative to a cartel; and after debate, the farther consideration thereof was postponed till Monday next.

Congress resumed the consideration of the report of the grand committee, and the following paragraph being read:

That it is their opinion that the western lands, if ceded to the United States, might contribute towards a fund for paying the debts of these states.

A motion was made by Mr. [John] Rutledge, seconded by Mr. [Arthur] Lee, to amend it, by inserting after "United States," the following words, "by the several states to which they belong."

¹ The Secretary at War's letter is in the *Papers of the Continental Congress*, No. 149, I, folio 611.

On this day, according to the indorsement, was presented a petition, dated Philadelphia, September 5, 1782, of sundry workmen at the musket laboratory in the Department of the Commissary General of Military Stores. It is in No. 42, IV, folio 290.

A motion was made by Mr. [Eliphalet] Dyer, seconded by Mr. [Thomas] McKean, to amend the amendment, by striking out the words "to which they belong," and in lieu thereof, inserting "claiming the same."

A motion was then made by Mr. [John] Witherspoon, seconded by Mr. [David] Howell, to postpone the consideration of the paragraph with the amendments, and to take into consideration the following set of resolutions:

That if the several states claiming the exclusive property of the western lands, would make cessions of them to the United States, agreeably to the recommendation of Congress of the 6 September and the resolution of the 10 of October, 1780, it would be an important fund for the discharge of the national debt:

That, therefore, it be recommended to those states which have made no cessions, as soon as possible to take the above recommendation into consideration and determine thereon:

That it be recommended to those states which have made cessions not entirely agreeable to the above recommendation to reconsider them, and send the result to the United States in Congress assembled:

That in case of a compliance with the above recommendation, ~~no alteration shall be made in the~~ determinations of the particular states relating to private property of lands within those cessions, shall be reversed or altered without their consent, unless in such cases as the 9th Article of the Confederation shall render it necessary.

On the question to agree to this last motion, the yeas and nays being required by Mr. [John] Rutledge,

<i>New Hampshire,</i>			<i>Rhode Island,</i>	
Mr. Gilman,	ay } *		Mr. Cornell,	ay } ay
<i>Massachusetts,</i>			Howell,	ay } ay
Mr. Osgood,	ay } ay		<i>Connecticut,</i>	
Jackson,	ay } ay		Mr. Huntington,	ay } ay
			Dyer,	ay } ay

<i>New York,</i>			<i>Virginia,</i>		
Mr. Duane,	ay	} ay	Mr. Madison,	ay	} no
L'Homedieu,	ay		Bland,	no	
<i>New Jersey,</i>			Lee,	no	
Mr. Clark,	no	} no	<i>North Carolina,</i>		
Condict,	no		Mr. Williamson,	no	} div.
Witherspoon,	ay		Blount,	ay	
<i>Pennsylvania,</i>			<i>South Carolina,</i>		
Mr. Montgomery,	ay	} ay	Mr. Rutledge,	no	} no
Smith,	ay		Ramsay,	ay	
Clymer,	ay		Izard,	ay	
Alee,	ay		Gervais,	no	
<i>Delaware,</i>			Middleton,	no	
Mr. McKean,	ay	} ay	<i>Georgia,</i>		
Wharton,	ay		Mr. Jones,	no	} no
<i>Maryland,</i>			Few,	no	
Mr. Hanson,	ay	} ay			
Carroll,	ay				
Wright,	ay				

So it was resolved in the affirmative.

The resolutions being then read: on motion of Mr. [Abraham] Clark, seconded by

Ordered, That they be referred to a committee of five.¹

MONDAY, SEPTEMBER 9, 1782

The committee, consisting of Mr. [Joseph] Montgomery, Mr. [Abraham] Clark, and Mr. [Eliphalet] Dyer, appointed to confer with the Superintendent of finance, relative to the drawing bills of exchange for the payment of interest, report,

¹ According to *Papers of the Continental Congress*, Committee Book No. 186, the resolutions were referred to Mr. [John] Witherspoon, Mr. [James] Madison, Mr. [John] Rutledge, Mr. [Samuel] Osgood and Mr. [Joseph] Montgomery.

On this day, according to the indorsement, was read a letter of the same date from the Secretary at War. It was "Referred to Mr. [Theodorick] Bland, Mr. [Ezekiel] Cornell, Mr. [Joseph] Montgomery, together with all the papers relative to promotions which on the 25 June and at sundry times since were referred to a committee of 5, which is discharged from so much of the business referred to them." It is in the *Papers of the Continental Congress*, No. 149, I, folio 671.

Another letter of this date from the Secretary at War was also read on this day. It related to the employment of troops in the southern department, and was referred, as the indorsement shows, to Mr. [John] Rutledge, Mr. [Theodorick] Bland, Mr. [Joseph] Montgomery Mr. [Abraham] Clark and Mr. [Ezekiel] Cornell. It is in No. 149, I, folio 629. See *post*, September 9.

By the United States in Congress assembled, Sept. 9, 1782.

Ordered, That Mr [Joseph] Montgomery, Mr [Abraham] Clark and Mr [Eliphalet] Dyer be a committee to confer with the Superintendent of Finance relative to the drawing bills for interest due tomorrow and report immediately.

CHAS. THOMSON *Secy.*¹

~~The Committee appointed to confer with the Superintendent of Finance, beg leave to report that they have conferred with the said Superintendent.~~

~~Therefore resolved~~, That the Superintendent of Finance be directed immediately to send off expresses to the different loan officers advising them to stop the drawing any more bills, for the interest due upon Loan office certificates on France, and that each Loan officer remit to the Superintendent of Finance all such bills as may be now upon hand.² And that the Superintendent of Finance take measures for issuing bills for paymts of the Interest remaining due up to the 10th of March last.

That by letter from Dr. Franklin of the — it appears there are no funds in Europe for payment of Bills drawn for interest due on Loan office certificates since the 1st of March last and that if any such are drawn at this time they must be protested.

That there are no Bills of Exchange in the offices of any of the States except those provided for the payment of interest due up to the 1st of March last: that should any be issued from the offices at this time for interest due since that time it must be to the injury of those claimants for whose benefit they were intended. ~~That since forwarding bills for interest due the 10th of March the mode of drawing such bills hath been changed, being now drawn on Mr. Le Grande whereas the former were drawn on Dr. Franklin.~~

That by letter from Dr. Franklin the Minister of France to the Sup^r of the day of last it appears there are no funds in Europe for payment of Bills drawn for interest due on Loan office certificates since the 1st day of March last and that should any such be drawn those who draw them must provide for the payment of them.³

¹ This order is in the writing of Charles Thomson.

² Up to this point the report is in the writing of Joseph Montgomery, the rest of the report being in the writing of Abraham Clark.

³ This order and report are in the *Papers of the Continental Congress*, No. 26, folios 345, 347 and 348.

“That there are no funds in Europe for the payment of bills for interest due on loan-office certificates since the first day of March last; that there are no bills of exchange in the loan office of any of the states, except those provided for the payment of interest due up to the first of March last; and that should any be issued from the offices at this time, for interest due since that time, it must be to the injury of those claimants for whose benefit they were intended;” Whereupon,

Resolved, That the Superintendent of finance be, and he is hereby directed to give immediate orders to the commissioners of the loan offices in the several states, to issue no bills of exchange for the interest which hath or may hereafter become due on loan-office certificates since the first day of March last.

Congress resumed the consideration of the report of the committee, on the report of the Secretary at War of the 26 of August, and the letter of the 28 of the same month from the Commander in Chief; the report of the committee being as follows:

The Committee consisting of Mr [Theodorick] Bland, Mr [James] Duane, and Mr [Ezekiel] Cornell, to whom were referred the Report of the Secretary at War of the 26th of August, and the letter of the Commander in Chief of the 28th, Submit the following Report:

“That your committee have carefully revised the report of the commissioners authorised by the Commander in Chief in pursuance of the act of Congress of the 18th day of February last, to treat with the commissioners of Sir Henry Clinton and Admiral Digby, then commanding the British land and naval forces at New York, upon a general cartel for subsisting, safe-keeping, exchanging and better treating all land and naval prisoners of war:

“That in the opinion of your committee, the propositions and claims on the part of the United States in the course of the said negotiation, were founded in equity and justified

on principles obviously dictated by the circumstances of the war:

“That there is too much reason to ascribe the inefficacy of the convention, to the predetermination of Sir Henry Clinton to regain his captive soldiers, without regard to the enormous debt which had accrued and is daily increasing for their subsistence:

“That contending with an enemy ~~superior in riches and naval strength but debilitated by the loss of the armies which they cannot effectually replace~~ whose chief confidence is placed in her riches and naval strength, and who is now disabled by the loss of a veteran army which cannot easily be replaced, the offers of the British general and admiral of a pecuniary composition for the large balance of prisoners of war, and of an exchange of a sailor for a soldier, were equally inadmissible; since a cartel acceded to on such grounds would render our victories fruitless, prolong the calamities of war, discourage the ardor of our troops, and endanger ~~the liberty and independence which we have now the fairest prospect of establishing on a permanent basis,~~ our national safety:

“That the attempts of the British commanders to enflame the minds of the marine prisoners in their power, and detach them from their allegiance, because an exchange on terms so detrimental to the public safety could not be adopted, appear to your committee to be insidious and dishonorable.”

With respect to the information contained in the extract of Sir Guy Carleton and Admiral Digby’s letter of the 2 August, referred to your committee, “that after Mr. Laurens was discharged, he declared that he considered Lord Cornwallis as freed from his parole;” your committee conceive it sufficient to observe, that no intimation having been received of such a fact except from the said extract, and Congress having given no directions to that purpose, the consideration

thereof would, in their opinion, be premature, and ought therefore to be deferred:

“That in the opinion of your committee, ~~there can be no objection to Sir Guy Carleton’s proposal that~~ chaplains, surgeons or hospital officers who shall be captured in future, may not be considered as prisoners of war; but that the condition offered by Sir Guy Carleton to reconcile the unequal proposition of exchanging sailors for soldiers, namely, “that the former shall be at liberty to serve the moment they are released, but the latter shall not serve in nor against the United States for one year,” is by no means satisfactory; for not to urge that the captive seamen are in general private citizens employed in the pursuit of commerce, and not as the proposition implies, attached to any public service: the facility with which British soldiers might be exchanged for the West India garrisons, and the injury our ally might sustain by their operating against his possessions, are sufficient reasons to disprove the equity of the condition:

“Your committee beg leave to add, that in their opinion the commission to be given on the part of the British commanders in chief, of the land as well as naval forces, for concluding a general cartel in pursuance of the late act of Congress, ought to express that it is derived from or founded upon the ultimate authority of the king of Great Britain, so that if a cartel should be established, it may not be considered as the unauthoritative act of an individual, destitute of a binding force on the British nation, a construction which your committee have the greatest reason to believe was given by the British ministry to a former agreement for the exchange of prisoners when Sir William Howe commanded in America. Your committee are the rather induced to recommend this precaution, because it seems probable that engagements may be taken in the proposed negotiation for securing a part of the large balance which is due to the United States on account of the subsistence of British pris-

oners. If this remark deserves attention, it is the opinion of your committee that the powers of the Commander in Chief, for treating of and establishing a general cartel for the exchange of prisoners, either by himself or commissioners, should be granted by letters patent under the Seal of the United States:

“Your committee cannot refrain from reminding Congress of the great weight of expence which is thrown upon the United States by the subsistence of so many thousand prisoners of war, for which the enemy constantly refuse to make a reasonable provision; and that in the opinion of your committee, the Commander in Chief ought to be instructed to remonstrate against the inhumanity and injustice of this procedure, and to insist in the most ~~peremptory~~ decided terms on reasonable satisfaction; and that if these, like former representations, should produce no effect, it will be high time to take measures, however disagreeable, for diminishing ~~an expence~~ a burden which is become intolerable.” Whereupon,

Resolved, That Congress approve the preceding report, and that it shall serve as an instruction to the Commander in Chief in executing the commission for authorising a general cartel for the exchange of prisoners of war, &c.¹

¹ This report, in the writing of James Duane, is in the *Papers of the Continental Congress*, No. 28, folios 97 and 103—1.

The following first draft of the report, undated, is in the writing of James Duane, except the part in brackets, which is in the writing of Ezekiel Cornell. It is in No. 28, folios 101 and 103:

The Committee consisting of &c. to whom was referred &c. beg leave to Report,

Resolved, That Congress approve of the proceedings of the Commissioners authorised by the Commander in Chief to treat with Commissioners appointed by Sir Henry Clinton, His Britannick Majesty's late commander in chief at New York as stated in their report dated the —— day of transmitted to Congress and registered [in] the Secretary's office.

That your Committee have carefully revised and maturely considered the Report of the Commissioners authorised by General Washington in pursuance of the act of Congress of the to treat with Commissioners appointed by Sir Henry Clinton the late British commander in chief at New York upon a cartel for the subsisting safe keeping and better treating all land and naval prisoners of war.

That in the opinion of your Committee the propositions and demands on the part of the United States in the course of the said negotiation were founded in moderation

On the report of a committee, consisting of Mr. [John] Rutledge, Mr. [Theodorick] Bland, Mr. [Joseph] Montgomery, Mr. [Abraham] Clark and Mr. [Ezekiel] Cornell, to whom was referred a letter of the 6th, from the Secretary at War,

justice and humanity and that the close of the said mission without producing the benevolent and desirable purposes for which it was intended can only be ascribed to the predetermination of Sir Henry Clinton to regain his captive soldiers, not only without regard to the vast debt which has accrued and is still accruing for their subsistence, but on terms and compositions founded neither in reciprocity nor equality. Your Committee therefore conceive that the propositions and demands so insisted on in behalf of the United States cannot be opposed without injustice nor relinquished without loss and dishonor, and that they therefore ought to form a basis for a future negotiation.

That your Committee are also of opinion that the Commissions to be given on the part of the British Commander in Chief of the land as well as naval forces, ought to express that it is founded on the ultimate authority of the King of Great Britain. So that the ~~negotiation~~ cartel may not be considered as the ~~private~~ unauthoritative act of an individual destitute of a binding force obligatory on the British nation, a construction which your Committee has great reason to believe was given by the British Ministry to a former agreement for the exchange of prisoners while Sir Wm. Howe commanded in America.

Your Committee are the rather induced to recommend this precaution because it seems probable that engagements may be taken, in the proposed negotiation for the securing of part of the large balance due to the United States on account of the subsistence of British prisoners.

But that the condition proposed by him to reconcile the unequal proposition of exchanging a sailor for a soldier, namely, that the British soldiers should be at liberty to serve the moment they are exchanged, that the American sailors should be at liberty to serve the moment they are exchanged, and that the soldiers to be received by the British shall not serve in nor against the United States for one year, is by no means satisfactory; not to urge that in general the captive seamen are attached to commercial pursuits and in no public service. The facility with which those soldiers might be exchanged for the West India Garrisons, and the injuries our Ally might sustain by their operating against his Possessions, are sufficient reasons to disprove the Equity of the Condition.

Propos. by our late Commiss. for a Cartel.

1. Citizens to be liberated and accounted for as private soldiers.
2. Chaplains to be given up without exch.
3. Officers of the navy for land officers.
- [4. Our Commissioners decline exchanging soldiers for seamen, also a pecuniary satisfaction for soldiers.
5. We offered to take £200,000 Sterling in full until the last day of April last.
6. The enemy claim a balance.
7. It appeared to our Commissioners that the object of the enemy was only to obtain their captive prisoners without any regard to other objects.
8. The General is of opinion that giving of seamen for soldiers is inadmissible.]

together with an extract of a letter of 1st, from the Commander in Chief:

Resolved, That Congress approve of the Maryland recruits now in that State and Armand's horse, joining the main army.

Resolved, That Major General Greene remain in the southern department with the rest of the troops under his command, until further orders from the Commander in Chief; and that copies of this resolve be transmitted to the Commander in Chief and to Major General Greene.

Resolved, That the Commander in Chief be informed, that it is represented to Congress, to be indispensably necessary to keep a regular force in that department; that he be directed to make the necessary enquiry into the circumstances of the southern states, and to employ such force therein as he may think proper; and that he direct Major General Greene, whilst in the southern department, to employ the troops under his command offensively or defensively, in such manner as may be most conducive to the interest of the United States.¹

The Superintendent of Finance to whom was referred the resolve of the House of Delegates of Virginia of the Second of July last, begs leave to report—

The following resolution,

That the Commissioners appointed to settle the accounts of the several States agreeably to the Act of the twentieth of February 1782 be and they are hereby directed to receive so much of the old Continental money as may be in the *respective treasuries*, and to count, examine, and destroy the same. That they transmit to the Superintendent of Finance accounts of the monies so destroyed. *That such monies* shall be credited to said States on their several quotas fixed by the resolutions of the eighteenth of March 1780 and where the amount shall exceed such quotas shall be credited to the States

¹ This report, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 27, folio 185.

respectively as hard money at the rate of 40 for one on the accounts previous to the first day of January 1782.¹

Ordered, That a letter, of 25th August, from the Governor of Rhode Island, and a Resolution of the Assembly of that State relative to the suggestion of Clarke and Nightingale being concerned in importing British goods be referred to the Agent of Marine.²

TUESDAY, SEPTEMBER 10, 1782

On the report of the Secretary at War, to whom was referred a letter of 8, from Captain Carnes, relative to the recruiting the second partizan corps:

WAR OFFICE, *September 10th, 1782.*

SIR,

On the letter from Captain Carnes on the subject of recruiting the Second Partizan Corps, I beg leave to observe that when Congress on the 23rd October 1780 ordered two partizan Corps to be raised—They ordered that the Commander in Chief, direct a mode of completing, *recruiting* and supplying the said Corps.

It is therefore necessary that the application for recruiting this Corps, which has been made to Congress should be to the Commander in Chief, for it is unknown to them what measures have been pursued by him, and what orders he may have issued on the subject, or whether he thinks, under the present appearance of things any are necessary.

Should Congress be of this opinion, they will please to order the Secretary at War to forward to the Commander in Chief a Copy of General Greene's letter on the subject, and direct the Secretary at

¹ This report is in the *Papers of the Continental Congress*, No. 137, I, folio 745. It was presented and read this day, as the indorsement states. See *post* September 18.

² This order was entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

On this day, according to the indorsement, a letter of September 8, from Patrick Carnes, Captain 2d Partizan Corps, was read, and referred to the Secretary at War to report. It is in the *Papers of the Continental Congress*, No. 78, VI, folio 143.

Also, a letter of General Washington, dated Head Quarters, Verplank's Point, September 4. It is in No. 152, X, folio 707.

Also, another letter from him dated Head Quarters, September 5. It is on folio 711.

Also, a letter dated August 13 from Major General Greene. It is in No. 155, II, folio 511.

War to inform Captain Carnes that his farther attendance on this business can be dispensed with.¹

Ordered, That the Secretary at War forward to the Commander in Chief a copy of Major General Greene's letter on the subject; and that he inform Captain Carnes that his farther attendance on this business can be dispensed with.

On motion of Mr. [James] Madison, seconded by Mr. [Arthur] Lee,²

Resolved, That the Secretary for Foreign Affairs be and he is hereby directed to obtain as speedily as possible authentic returns of the slaves and other property ~~capable of being identified~~ which have been carried off or destroyed in the course of the war by the enemy, and to transmit the same to the ministers plenipotentiary for negotiating a peace.³

On the question to agree to this, the yeas and nays being required by Mr. [Turbett] Wright,

<i>New Hampshire,</i>			<i>New Jersey,</i>	
Mr. Gilman,	no } *		Mr. Clark,	no }
<i>Massachusetts,</i>			Condict,	no } no
Mr. Osgood,	ay } ay		Witherspoon,	ay }
Jackson,	ay }		<i>Pennsylvania,</i>	
<i>Rhode Island,</i>			Mr. Montgomery,	ay }
Mr. Cornell,	ay } div.		Smith,	ay }
Howell,	no }		Clymer,	ay }
<i>Connecticut,</i>			Atlee,	ay }
Mr. Huntington,	ay } ay		<i>Delaware,</i>	
Dyer,	ay }		Mr. McKean,	ay }
<i>New York,</i>			Wharton,	ay }
Mr. Duane,	ay } ay			
L'Hommedieu,	ay }			

¹ This report is in the *Papers of the Continental Congress*, No. 149, I, folio 675.

² Madison's motion and the vote and resolution following it, in regard to confiscated property, were also entered in the manuscript Secret Journal, Foreign Affairs. The motion and the resolution were also entered in Secret Journal, No. 4.

³ This resolution, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 36, I, folio 379. The vote is indorsed on it.

<i>Maryland,</i>			<i>South Carolina,</i>		
Mr. Hanson,	no	} no	Mr. Rutledge,	ay	} ay
Carroll,	no		Ramsay,	ay	
Wright,	no		Izard,	ay	
<i>Virginia,</i>			Gervais,	ay	
Mr. J. Jones,	ay	} ay	Middleton,	ay	
Madison,	ay		<i>Georgia,</i>		
Bland,	ay		Mr. Telfair,	ay	} ay
Lee,	ay		N. W. Jones,	ay	
<i>North Carolina,</i>			Few,	ay	
Mr. Williamson,	ay	} ay			
Blount,	ay				

So it was resolved in the affirmative.

Resolved, That in the meantime the Secretary for Foreign Affairs inform the said ministers that ~~great numbers~~ many thousand of slaves and ~~such~~ other property ~~as aforesaid~~ to a very great amount have been carried off or destroyed by the enemy.

~~That the said ministers be instructed in case any stipulations should become unavoidable in a treaty of peace in favor of a restitution of property confiscated within the United States to contend in the most earnest manner for a restitution to the citizens of the United States of such slaves and other property as aforesaid, as shall appear to have been plundered from them by the Enemy or their adherents.¹~~

And that in the opinion of Congress the great loss of property which the citizens of the United States have sustained by the enemy will be considered by the several states as an insuperable bar to their making restitution or indemnification to the former owners of property which has been or may be forfeited to or confiscated by any of the states.²

On motion of Mr. [Thomas] Smith, seconded by Mr. [Eliphalet] Dyer,

¹ These resolutions, in the writing of James Madison, are in the *Papers of the Continental Congress*, No. 36, I, folio 379.

² This resolution, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 36, I, folio 377.

Resolved, That the agent of marine be, and he is hereby, directed to collect and lay before Congress, as soon as may be, authentic returns of the seamen who have been captured and admitted to parole, or otherwise liberated, by private vessels of war, or letters of marque commissioned by Congress.¹

The grand committee, consisting of Mr. [John Taylor] Gilman, Mr. [Jonathan] Jackson, Mr. [David] Howell, Mr. [Eliphalet] Dyer, Mr. [James] Duane, Mr. [John] Witherspoon, Mr. [George] Clymer, Mr. [Thomas] McKean, Mr. [Daniel] Carroll, Mr. [Arthur] Lee, Mr. [Hugh] Williamson, Mr. [John] Rutledge, and Mr. [Edward] Telfair, to whom were referred the resolutions of the 4th, in order to assess the quotas of the several states of the one million two hundred thousand dollars, required for the payment of the interest of the domestic debt, report,

That the 1,200,000 dollars, to be raised for the payment of the interest of the domestic debt of the United States, be apportioned to the several states according to the following quotas, viz.

New Hampshire.....	48,000	Maryland.....	132,000
Massachusetts.....	192,000	Virginia.....	174,000
Rhode Island.....	28,800	North Carolina.....	88,800
Connecticut.....	133,200	South Carolina.....	72,000
New York.....	54,000	Georgia.....	14,400
New Jersey.....	66,000		
Pennsylvania.....	180,000		
Delaware.....	16,800		
			1,200,000 ²

A motion was made by Mr. [John Taylor] Gilman, seconded by Mr. [Arthur] Lee, that the quota of New Hampshire be reduced to 42,000.

¹ This motion, in the writing of Thomas Smith, is in the *Papers of the Continental Congress*, No. 36, I, folio 381.

² This report, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 26, folio 349.

And on the question to agree to this amendment, the yeas and nays being required by Mr. [John Taylor] Gilman,

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Gilman,	ay	} *	Mr. Hanson,	no	} no
<i>Massachusetts,</i>			Carroll,	no	
Mr. Osgood,	ay	} ay	Wright,	no	
Jackson,	ay		<i>Virginia,</i>		
<i>Rhode Island,</i>			Mr. Madison,	no	} no
Mr. Cornell,	ay	} ay	Bland,	no	
Howell,	ay		Lee,	ay	
<i>Connecticut,</i>			<i>North Carolina,</i>		
Mr. Huntington,	ay	} div.	Mr. Williamson,	no	} no
Dyer,	no		Blount,	no	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Duane,	no	} no	Mr. Rutledge,	no	} no
L'Hommedieu,	no		Ramsay,	no	
<i>New Jersey,</i>			Izard,	no	
Mr. Clark,	no	} no	Gervais,	no	
Condict,	ay		Middleton,	no	
Witherspoon,	no		<i>Georgia,</i>		
<i>Pennsylvania,</i>			Mr. Telfair,	no	} no
Mr. Montgomery,	no	} no	Jones,	no	
Smith,	no		Few,	ay	
Clymer,	no				
Atlee,	no				
<i>Delaware,</i>					
Mr. McKean,	no	} no			
Wharton,	no				

So it passed in the negative.

A motion was made by Mr. [Samuel] Osgood, seconded by Mr. [Jonathan] Jackson, that the sum of 9000 dollars be taken from the quota of Massachusetts, and added to that of Virginia.

And on the question to agree to this, the yeas and nays being required by Mr. [Samuel] Osgood,

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Gilman,	no	} *	Mr. Hanson,	no	} no
<i>Massachusetts,</i>			Carroll,	no	
Mr. Osgood,	ay	} ay	Wright,	no	
Jackson,	ay		<i>Virginia,</i>		
<i>Rhode Island,</i>			Mr. Madison,	no	} no
Mr. Cornell,	no	} no	Bland,	no	
Howell,	no		Lee,	no	
<i>Connecticut,</i>			<i>North Carolina,</i>		
Mr. Huntington,	no	} no	Mr. Williamson,	no	} no
Dyer,	no		Blount,	no	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Duane,	no	} no	Mr. Rutledge,	no	} no
L'Hommedieu,	no		Ramsay,	no	
<i>New Jersey,</i>			Izard,	no	
Mr. Clark,	no	} no	Gervais,	no	
Condict,	no		Middleton,	no	
Witherspoon,	no		<i>Georgia,</i>		
<i>Pennsylvania,</i>			Mr. Telfair,	no	} no
Mr. Montgomery,	no	} no	Jones,	no	
Smith,	no		Few,	ay	
Clymer,	no				
Atlee,	no				
<i>Delaware,</i>					
Mr. McKean,	no	} no			
Wharton,	no				

So it passed in the negative.

A motion was made by Mr. [Ezekiel] Cornell, seconded by Mr. [David] Howell, that 2800 be taken from the quota of Rhode Island and added to that of New Jersey.

And on the question to agree to this, the yeas and nays being required by Mr. [Ezekiel] Cornell,

<i>New Hampshire,</i>			<i>Rhode Island,</i>		
Mr. Gilman,	no	} *	Mr. Cornell,	ay	} ay
<i>Massachusetts,</i>			Howell,	ay	
Mr. Osgood,	no	} no	<i>Connecticut,</i>		
Jackson,	no		Mr. Huntington,	no	} no
			Dyer,	no	

<i>New York,</i>			<i>Virginia,</i>		
Mr. Duane,	no	} no	Mr. Madison,	no	} no
L'Hommedieu,	no		Bland,	no	
<i>New Jersey,</i>			Lee,	no	
Mr. Clark,	no	} no	<i>North Carolina,</i>		
Condict,	no		Mr. Williamson,	no	} no
Witherspoon,	no		Blount,	no	
<i>Pennsylvania,</i>			<i>South Carolina,</i>		
Mr. Montgomery,	no	} no	Mr. Rutledge,	no	} no
Smith,	no		Ramsay,	no	
Clymer,	no		Izard,	no	
Atlee,	no		Gervais,	no	
<i>Delaware,</i>			Middleton,	no	
Mr. McKean,	no	} no	<i>Georgia,</i>		
Wharton,	no		Mr. Telfair,	no	} no
<i>Maryland,</i>			Jones,	no	
Mr. Hanson,	no	} no	Few,	ay	
Carroll,	no				
Wright,	no				

So it passed in the negative.

A motion was then made by Mr. [Eliphalet] Dyer, seconded by Mr. [Benjamin] Huntington, that 33,200 dollars be taken from the quota of Connecticut.

On which the yeas and nays being required by Mr. [Eliphalet] Dyer,

<i>New Hampshire,</i>			<i>New Jersey,</i>		
Mr. Gilman,	no	} *	Mr. Clark,	no	} no
<i>Massachusetts,</i>				Condict,	
Mr. Osgood,	no	} no	Witherspoon,	no	
Jackson,	no		<i>Pennsylvania,</i>		
<i>Rhode Island,</i>			Mr. Montgomery,	no	} no
Mr. Cornell,	no	} no	Smith,	no	
Howell,	no		Clymer,	no	
<i>Connecticut,</i>				Atlee,	
Mr. Huntington,	ay	} ay	<i>Delaware,</i>		
Dyer,	ay		Mr. McKean,	no	} no
<i>New York,</i>			Wharton,	no	
Mr. Duane,	no	} no			
L'Hommedieu,	no				

<i>Maryland,</i>			<i>South Carolina,</i>		
Mr. Hanson,	no	} no	Mr. Rutledge,	no	} no
Carroll,	no		Ramsay,	no	
Wright,	no		Izard,	no	
<i>Virginia,</i>			Gervais,	no	
Mr. Madison,	no	} no	Middleton	no	
Bland,	no		<i>Georgia,</i>		
Lee,	ay		Mr. Telfair,	no	} no
<i>North Carolina,</i>			Jones,	no	
Mr. Williamson,	no		Few,	no	
Blount,	no	} no			

So it passed in the negative.

A motion was then made by Mr. [Daniel] Carroll, seconded by Mr. [Turbett] Wright, that 13,750 dollars be taken from the quota of Maryland and added to the quota of Connecticut.

And the yeas and nays being required by Mr. [Daniel] Carroll,

<i>New Hampshire,</i>			<i>Pennsylvania,</i>		
Mr. Gilman,	no	} *	Mr. Montgomery,	no	} no
<i>Massachusetts,</i>				Smith,	
Mr. Osgood,	no	} no	Clymer,	no	
Jackson,	no			Atlee,	
<i>Rhode Island,</i>			<i>Delaware,</i>		
Mr. Cornell,	no	} no	Mr. McKean,	no	} no
Howell,	no			Wharton,	
<i>Connecticut,</i>			<i>Maryland,</i>		
Mr. Huntington,	no	} no	Mr. Hanson,	ay	} ay
Dyer,	no			Carroll,	
<i>New York,</i>			Wright,	ay	
Mr. Duane,	no	} no	<i>Virginia,</i>		
L'Hommedieu,	no			Mr. Madison,	no
<i>New Jersey,</i>			Bland,	no	
Mr. Clark,	no	} no	Lee,	no	
Condict,	no			<i>North Carolina,</i>	
Witherspoon,	no			Mr. Williamson,	no
			Blount,	no	

<i>South Carolina,</i>		<i>Georgia,</i>	
Mr. Rutledge,	no	Mr. Jones,	no
Ramsay,	no	Few,	no
Izard,	no		
Gervais,	no		
Middleton,	no		

So it passed in the negative.¹

A motion was made by Mr. [James] Duane, seconded by Mr. [Ezra] L'Hommedieu, that 9600 dollars be taken from the quota of New York.

And the yeas and nays being required thereon by Mr. [James] Duane,

<i>New Hampshire,</i>		<i>Delaware,</i>	
Mr. Gilman,	no	Mr. McKean,	no
<i>Massachusetts,</i>		Wharton,	no
Mr. Osgood,	no	<i>Maryland,</i>	
Jackson,	no	Mr. Hanson,	no
<i>Rhode Island,</i>		Carroll,	ay
Mr. Howell,	no	Wright,	no
<i>Connecticut,</i>		<i>Virginia,</i>	
Mr. Huntington,	no	Mr. Madison,	no
Dyer,	ay	Lee,	no
<i>New York,</i>		<i>North Carolina,</i>	
Mr. Duane,	ay	Mr. Williamson,	no
L'Hommedieu,	ay	Blount,	no
<i>New Jersey,</i>		<i>South Carolina,</i>	
Mr. Clark,	no	Mr. Rutledge,	no
Condict,	no	Ramsay,	no
Witherspoon,	no	Izard,	no
<i>Pennsylvania,</i>		Gervais,	no
Mr. Montgomery,	no	Middleton,	no
Smith,	no	<i>Georgia,</i>	
Clymer,	no	Mr. Jones,	no
Atlee,	no	Few,	no

So it passed in the negative.

¹ On this day, according to the indorsement, a letter of August 20 from the Governor of North Carolina, was read. It is in the *Papers of the Continental Congress*, No. 72, folio 155.

A motion was then made by Mr. [Thomas] Smith, seconded by Mr. [Samuel John] Atlee, that 3000 dollars be taken from the quota of Pennsylvania and added to that of Virginia.

And the yeas and nays being required by Mr. [Thomas] Smith,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	no	} *	Mr. McKean,	no	} no
<i>Massachusetts,</i>			Wharton,	no	
Mr. Osgood,	ay	} ay	<i>Maryland,</i>		
Jackson,	ay		Mr. Hanson,	no	} no
<i>Rhode Island,</i>			Carroll,	no	
Mr. Cornell,	no	} no	Wright,	no	
Howell,	no		<i>Virginia,</i>		
<i>Connecticut,</i>			Mr. Madison,	no	} no
Mr. Huntington,	no	} no	Bland,	no	
Dyer,	no		Lee,	no	
<i>New York,</i>			<i>North Carolina,</i>		
Mr. Duane,	no	} no	Mr. Williamson,	no	} no
L'Hommedieu,	no		Blount,	no	
<i>New Jersey,</i>			<i>South Carolina,</i>		
Mr. Clark,	no	} no	Mr. Rutledge,	no	} no
Condict,	no		Ramsay,	no	
Witherspoon,	no		Izard,	no	
<i>Pennsylvania,</i>			Gervais,	no	
Mr. Montgomery,	ay	} ay	Middleton,	no	
Smith,	ay		<i>Georgia,</i>		
Clymer,	no		Mr. Jones,	no	} no
Atlee,	ay		Few,	no	

So it passed in the negative.

A motion was made by Mr. [Noble Wimberly] Jones, seconded by Mr. [William] Few, that 7200 dollars be taken from the quota of Georgia, in consideration of the ravages of the war.¹

¹ This motion, in the writing of Noble Wimberly Jones, is in the *Papers of the Continental Congress*, No. 26, folio 351.

And the yeas and nays being required by Mr. [Noble Wimberly] Jones,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	no	} *	Mr. McKean,	no	} no
<i>Massachusetts,</i>			Wharton,	no	
Mr. Osgood,	no	} no	<i>Maryland,</i>		
Jackson,	no		Mr. Hanson,	no	} no
<i>Rhode Island,</i>			Carroll,	no	
Mr. Cornell,	no	} no	Wright,	no	
Howell,	no		<i>Virginia,</i>		
<i>Connecticut,</i>			Mr. Madison,	no	} no
Mr. Huntington,	no	} no	Bland,	no	
Dyer,	no		Lee,	no	
<i>New York,</i>			<i>North Carolina,</i>		
Mr. Duane,	no	} no	Mr. Williamson,	no	} no
L'Hommedieu,	no		Blount,	no	
<i>New Jersey,</i>			<i>South Carolina,</i>		
Mr. Clark,	no	} no	Mr. Rutledge,	no	} no
Condict,	no		Ramsay,	no	
Witherspoon,	no		Izard,	no	
<i>Pennsylvania,</i>			Gervais,	no	
Mr. Montgomery,	no	} no	Middleton,	no	
Smith,	no		<i>Georgia,</i>		
Clymer,	no		Mr. Jones,	ay	} ay
Atlee,	no		Few,	ay	

So it passed in the negative.

The question being taken on the respective quotas of the several states, was agreed to, and the report of the grand committee confirmed.

The Committee of the Week, [Mr. Samuel John Atlee, Mr. Silas Condict, Mr. William Few] Report a memorial of Captain Leibert, praying payment of a sum of money advanced by him for the use of his company in Col. Hazen's Regiment,

Referred to the ~~Superintendent of Finance~~ Secretary at War to report.

A petition from David Turner a British prisoner in the new goal, praying to be discharged from his imprisonment and the liberty of

becoming a citizen of America, having married into a reputable family in this city.

The Committee recommend that the petitioner have the liberty granted to the German prisoners, by the instructions given to the Superintendent of Finance and Secretary at War of the [5] day of June last—

A petition from Seth Phelps of the Regiment of invalids requesting leave to retire &c^s

Referred to the Secretary at War to report.¹

THURSDAY, SEPTEMBER 12, 1782

Whereas James Innes, esq. who was on the 9th day of July last, elected to the office of judge-advocate, has not signified his acceptance, and it being intimated to Congress that he declines to accept the office:

Resolved, That Wednesday next be assigned for electing a judge-advocate.

The committee, consisting of Mr. [James] Duane, Mr. [Thomas] McKean and Mr. [John] Witherspoon, to whom was referred a ~~petition~~ memorial of Robert Aitken, printer, dated 21 January, 1781, respecting an edition of the holy scriptures, report,

That Mr. Aitken has at a great expence now finished an American edition of the holy scriptures in English; that the committee have, from time to time, ~~conferred with him~~

¹ This report, in the writing of Samuel John Atlee, is in the *Papers of the Continental Congress*, No. 32, folio 393. It is undated but belongs to this period. The memorial of Captain Philip Leibert, dated Philadelphia, September 9, 1782, is in No. 41, V, folio 290. The petition of Seth Phelps, dated West Point, September 4, 1782, is in No. 41, VIII, folio 166. According to Committee Book No. 186, both were referred to the Secretary at War on this day.

On this day, according to the indorsement, was read a letter of September 9 from the Agent of Marine, reporting that he has purchased the ship *Washington*. It is in No. 137, I, folio 749.

Also, a letter of the 9th, from the Superintendent of Finance, on his proposal to borrow four millions in Europe, was read and referred to Mr. [James] Duane, Mr. [Joseph] Montgomery and Mr. [James] Madison. It is in No. 137, I, folio 753.

On September 11, according to the indorsement, was read a letter of September 8 from General Washington. It is in No. 152, X, folio 715.

attended to his progress in the work: that they also recommended it to the two chaplains of Congress to examine and give their opinion of the execution, who have accordingly reported thereon:

The recommendation and report being as follows:

PHILADELPHIA, 1 September, 1782.

Rev. Gentlemen, Our knowledge of your piety and public spirit leads us without apology to recommend to your particular attention the edition of the holy scriptures publishing by Mr. Aitken. He undertook this expensive work at a time, when from the circumstances of the war, an English edition of the Bible could not be imported, nor any opinion formed how long the obstruction might continue. On this account particularly he deserves applause and encouragement. We therefore wish you, reverend gentlemen, to examine the execution of the work, and if approved, to give it the sanction of your judgment and the weight of your recommendation. We are with very great respect, your most obedient humble servants,

(Signed) JAMES DUANE, *Chairman,*

In behalf of a committee of Congress on Mr. Aitken's memorial.

Rev. Dr. White and Rev. Mr. Duffield, chaplains of

the United States in Congress assembled.

REPORT.

Gentlemen, Agreeably to your desire, we have paid attention to Mr. Robert Aitken's impression of the holy scriptures, of the old and new testament. Having selected and examined a variety of passages throughout the work, we are of opinion, that it is executed with great accuracy as to the sense, and with as few grammatical and typographical errors as could be expected in an undertaking of such magnitude. Being ourselves witnesses of the demand for this invaluable book, we rejoice in the present prospect of a supply, hoping that it will prove as advantageous as it is honorable to the gentleman, who has exerted himself to furnish it at the evident risk of private fortune. We are, gentlemen, your very respectful and humble servants,

(Signed) WILLIAM WHITE,
GEORGE DUFFIELD.

PHILADELPHIA, September 10, 1782.

Hon. James Duane, esq. chairman, and the other hon. gentlemen of the committee of Congress on Mr. Aitken's memorial.

Whereupon, Resolved, That the United States in Congress assembled, highly approve the pious and laudable undertaking of Mr. Aitken, as subservient to the interest of religion as well as an instance of the progress of arts in this country, and being satisfied from the above report, of his care and accuracy in the execution of the work, they recommend this edition of the Bible to the inhabitants of the United States, and hereby authorise him to publish this recommendation in the manner he shall think proper.¹

The Committee of the Week [Mr. Samuel John Atlee, Mr. Silas Condict, Mr. William Few] report, That the memorial of Joseph Frost stating that in the year 1777 he enlisted two teams in the Continental service the one of horses and the other of oxen, that a soldier ran a bayonet into one of his horses, and killed him, and that one of his oxen died of poverty, for which the said Frost requests to be paid, be referred to the Commissioner for settling the Quarter Master's Accounts.

That the memorial of James Duggan requesting a settlement of his account and payment of the balance which may be found due to him, be referred to the Superintendent of Finance.²

The Committee of the Week [Mr. Samuel John Atlee, Mr. Silas Condict, Mr. William Few] Report a memorial from Major Franks praying to be reinstated in his rank in the army from which he has been deranged in his absence to Europe upon public business. Referred to the Secy. at War.³

¹ The Committee's report, in the writing of John Witherspoon, is in the *Papers of the Continental Congress*, No. 19, I, folio 59. Duane's letter is on folio 65. White and Duffield's report on folio 63. Aitken's letter of September 9 submitting the work to Congress is in No. 78, I, folio 421. His letter of September 25, sending one of the first copies to Congress, is on folio 425.

² This report is in the *Papers of the Continental Congress*, No. 32, folio 395. The indorsement states that it was considered on this day.

³ This report, in the writing of Samuel John Atlee, is in the *Papers of the Continental Congress*, No. 32, folio 397. It is undated but belongs to this period. Committee Book No. 191 shows that the report of the Secretary at War was delivered September 14 and passed October 22. The memorial of Major David S. Franks, undated, is in No. 41, III, folio 268. The indorsement shows that it was referred to the Secretary at War on this day.

FRIDAY, SEPTEMBER 13, 1782

On the report of a committee, consisting of Mr. [Ezekiel] Cornell, Mr. [Theodorick] Bland and Mr. N[oble] W[imberly] Jones, to whom was referred a letter of 11, from the Secretary at War:

~~Resolved, That the Commander in Chief, Superintendent of finance and Secretary at War take order for carrying into execution the expeditions as mentioned in a letter from the said Secretary at War of the 11 instant, provided that money necessary for defraying the expence be advanced by the State of Pennsylvania in such a manner as not to derange or interfere with the present plans of the said Superintendent of finance.~~

Resolved, That the Secretary at War take order for carrying into execution the expeditions mentioned in his said letter, so far as the Commander in Chief shall have approved of employing therein the recruits of the Pennsylvania line or other continental troops.¹

SATURDAY, SEPTEMBER 14, 1782²

A motion was made by Mr. [Arthur] Lee, seconded by Mr. [Theodorick] Bland,

That the several ministers of the United States, in Europe be instructed to conform strictly to the resolutions of Congress of 27 November and 3 December, 1781, by which the care and management of all monies which have been or may be obtained in Europe, by loans or otherwise, have been committed to the Superintendent of finance, to be disposed of by him according to appropriations of the United States in Congress assembled.

¹ This report, in the writing of a clerk, the last paragraph being in that of Charles Thomson, is in the *Papers of the Continental Congress*, No. 27, folio 189. The Secretary at War's letter, in reference to two expeditions against the Indians, is in No. 149, I, folio 679.

² The proceedings of this day were also entered in the manuscript Secret Journal, Foreign Affairs.

On the question to agree to this, the yeas and nays being required by Mr. [Arthur] Lee,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	no	} *	Mr. McKean,	no	} *
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Osgood,	ay	} *	Mr. Hanson,	no	} no
<i>Rhode Island,</i>			Carroll,	no	
Mr. Cornell,	no	} div.	<i>Virginia,</i>		
Howell,	ay		Mr. Madison,	ay	} ay
<i>Connecticut,</i>			Bland,	ay	
Mr. Huntington,	no	} div.	Lee,	ay	
Dyer,	ay		<i>North Carolina,</i>		
<i>New York,</i>			Mr. Williamson,	no	} no
Mr. Duane,	ay	} ay	Blount,	no	
L'Hommedieu,	ay		<i>South Carolina,</i>		
<i>New Jersey,</i>			Mr. Rutledge,	no	} ay
Mr. Clark,	ay	} ay	Ramsay,	ay	
Boudinot,	no		Izard,	ay	
Condict,	ay		Gervais,	ay	
Witherspoon,	ay		Middleton,	ay	
<i>Pennsylvania,</i>				<i>Georgia,</i>	
Mr. Montgomery,	no	} no	Mr. Jones,	ay	} ay
Smith,	no		Few,	ay	
Clymer,	no				
Atlee,	no				

So the question was lost.

On motion of Mr. [James] Madison, seconded by Mr. [James] Duane,

Resolved, That the several public ministers of the United States, in Europe, be informed that the care and management of all monies which have been or may be obtained in Europe, by loans or otherwise, having been committed to the Superintendent of finance, to be disposed of by him according to appropriations of the United States in Congress assembled, it is the instruction of Congress that they conform in the strictest manner to this arrangement¹

¹ This motion was also entered in Secret Journal, No. 4.

~~and prevent so far as may depend on them the disposition or expenditure of any moneys belonging to the United States by any other terms or in any other manner than may be expressly authorised by the said Superintendant of Finance or be specially directed by Congress.~~¹

The committee, consisting of Mr. [James] Duane, Mr. [Joseph] Montgomery and Mr. [James] Madison, to whom was referred a letter of the 9, from the Superintendent of finance, having reported that it be

Resolved, That the sum of five millions of dollars be borrowed on the faith of these United States, for the service of the year 1783, on such terms as the same can be obtained; and the same being postponed,

A motion was made by Mr. [John] Rutledge, seconded by Mr. [Hugh] Williamson,

That a sum not exceeding five millions of dollars, including the money which Mr. Adams may obtain by the loan now negotiating in Holland, be borrowed in Europe, on the faith of the United States, and applied towards defraying the expences which shall be incurred, and of those which during the present year have been incurred for carrying on the war.²

A motion was made by Mr. [James] Duane, seconded by Mr. [James] Madison, to strike out the word "including," and insert "exclusive of."

And on the question to agree to this amendment, the yeas and nays being required by Mr. [James] Duane,

<i>New Hampshire,</i>			<i>Rhode Island,</i>	
Mr. Gilman,	no } *		Mr. Cornell,	no } no
<i>Massachusetts,</i>			Howell,	no } no
Mr. Osgood,	no } no		<i>Connecticut,</i>	
Jackson,	no } no		Mr. Huntington,	no } no
			Dyer,	no } no

¹ This motion, undated, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 19, IV, folio 369.

² This motion, undated, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 19, IV, folio 365.

<i>New York,</i>			<i>Virginia,</i>		
Mr. Duane,	ay	} ay	Mr. Madison,	ay	} ay
L'Hommedieu,	ay		Bland,	no	
<i>New Jersey,</i>			Lee,	ay	
Mr. Clark,	no	} no	<i>North Carolina,</i>		
Boudinot,	ay		Mr. Williamson,	ay	} ay
Condict,	no		Blount,	ay	
Witherspoon,	no		<i>South Carolina,</i>		
<i>Pennsylvania,</i>			Mr. Rutledge,	ay	} ay
Mr. Montgomery,	ay		Ramsay,	ay	
Smith,	ay		Izard,	ay	
Clymer,	ay		Gervais,	no	
			Middleton,	ay	
<i>Delaware,</i>			<i>Georgia,</i>		
Mr. McKean,	ay	*	Mr. Jones,	ay	} div.
<i>Maryland,</i>			Few,	no	
Mr. Hanson,	ay	} ay			
Carroll,	ay				

So the amendment was lost.

A motion was then made by Mr. [John] Rutledge, seconded by Mr. [James] Duane, to strike out "five," and insert "four;" and instead of "including," to read "exclusive of."

Question put, passed in the affirmative.

On the question to agree to the resolution, it was resolved in the affirmative as follows:

[Resolved, That a sum not exceeding four millions of dollars, exclusive of the money which Mr. Adams may obtain by the loan now negotiating in Holland, be borrowed in Europe on the faith of the United States of America, and applied towards defraying the expences which shall be incurred, and of those which during the present year have been incurred, for carrying on the war.

The Committee consisting of Mr. [James] Duane, Mr. [Joseph] Montgomery and Mr. [James] Madison, to whom was referred a letter from the Superintendent of Finance of the 9th instant, submit the following resolutions;

Resolved, That the sum of five millions of Dollars be borrowed on the faith of these United States for the service of the year 1783, on such terms as the same can be obtained,

Postponed

Resolved, That the Superintendant of finance and Secretary for foreign affairs take order for carrying the above resolution into effect, transmitting the same without delay to the ministers plenipotentiary of these United States at the Court of Versailles and at the Hague.

Resolved, That the minister plenipotentiary of these United States at the Court of Versailles, be, and he is hereby instructed to communicate the foregoing resolution to his Most Christian Majesty, and to assure his Majesty of the high sense which the United States in Congress assembled, entertain of his friendship and generous exertions; their reliance on a continuance of them, and the necessity of applying to his Majesty on the present occasion; and the said minister is further instructed to co-operate with the Superintendant of finance and Secretary for foreign affairs in the most effectual means for giving success to the said loan.¹

On the report of a committee, consisting of Mr. [Jonathan] Jackson, Mr. [Thomas] McKean, Mr. [John] Rutledge, to whom were referred a letter of the 5 of July from the Hon. J. Adams, and a letter of the 11 July, 1782, from Wilhelm and Jan Willink, and Nicholaas and Jacob Van Staphorst, and de la Lande and Fynje, together with five several contracts or engagements entered into by the Hon. J. Adams, in behalf of the United States of America:

Resolved, That the following ratification be endorsed on the contracts, and the five translations of them into the English language, and signed by the President of Congress; and that the Secretary for foreign affairs transmit the said five contracts, with their translations so indorsed and signed, by the several safe conveyances that shall first offer for Holland or France.

¹ This report, in the writing of James Duane, is in the *Papers of the Continental Congress*, No. 19, IV, folio 367.

The indorsement to be as follows:¹

Be it remembered, that the five several contracts or engagements entered into by the Honorable John Adams, esq. minister plenipotentiary of the United States of America to their High Mightinesses the Lords the States General of the United Netherlands, in behalf of the said United States, bearing date the 11th day of June, in the year one thousand seven hundred and eighty-two, and purporting to be securities each of them for the payment of a million of guilders, Dutch current money, by the United States, to certain money lenders, under the negotiation of Messrs. Wilhelm and Jan Willink, Nicholaas and Jacob Van Staphorst, and de la Lande and Fynje, merchants in Amsterdam, were read in Congress, approved and ratified, and the same are hereby ratified and declared obligatory on the said United States.]²

Done in the State-house, at Philadelphia, by the United States of America, in Congress assembled, the 14th day of September, in the year of our Lord one thousand seven hundred and eighty-two, and in the 7th year of our sovereignty and independence.

JOHN HANSON, *President*.³

On a report of the Secretary for foreign affairs, to whom was referred a letter of the 19th April, 1782, from the Honorable J. Adams:

Ordered, That the letter of the 19th of April, 1782, from the Honorable John Adams to the Secretary for foreign affairs, containing extracts from the registers of their High Mightinesses the States General of the United Provinces, expressive of their resolution to receive and acknowledge the said Mr. Adams in quality of minister plenipotentiary of the United States of America, be published, together with the resolutions of the states of each respective province relative to the same object.

Resolved, That an account of this event be given by the Secretary for foreign affairs to the executive of each respective

¹ From this point the entries in the Journal are by George Bond.

² The part in brackets was also entered in Secret Journal, No. 4.

³ The report of the committee, in substantially the same language as the resolution, is in the *Papers of the Continental Congress*, No. 19, I, folio 21. The first paragraph providing for the indorsement on the contracts is in the writing of Jonathan Jackson; the indorsement is in Thomas McKean's writing.

State, requesting them severally to cause the same to be made public.¹

MONDAY, SEPTEMBER 16, 1782

Resolved, That the following commission be executed and transmitted to his Excellency General Washington:

THE UNITED STATES IN CONGRESS ASSEMBLED.

To all people who shall see these presents, send greeting.

Whereas justice and humanity and the practice of civilized nations, require that the calamities and asperities of war should as far as possible be mitigated; and we being disposed for that benevolent purpose to accede to a general cartel between the United States of America and the British nation, for the exchange, subsistence and better treatment of all prisoners of war: Now therefore know ye, that reposing high confidence in the wisdom, prudence and integrity of our trusty and well beloved George Washington, esq. our Commander in Chief of all our armies, raised and to be raised for the defence of the United States of America, we have authorised and empowered, and by these presents do authorise and empower, our said Commander in Chief, for us and in our name, to negotiate, accede to and establish, in the proper forms and with the usual solemnities, such general cartel between the United States in Congress assembled, and the king of Great Britain, for the exchange, subsistence and better treatment of all prisoners of war, as well land as naval prisoners; hereby giving and granting to our said Commander in Chief full power and authority, ultimately and on all points, to adjust and conclude the principles, terms and conditions of the said cartel, and in general to do and perform every matter and thing which shall in any wise be necessary for the final and perfect accomplishment thereof. And the better to enable our said Commander in Chief to execute the trust reposed in

¹ At this point Charles Thomson resumes the entries in the Journal.

On this day, according to the indorsement, a letter of September 13 from the Superintendent of Finance was read announcing the arrival of the ship *Heer Adams* with clothing. It is in the *Papers of the Continental Congress*, No. 137, I, folio 757.

Also, a letter from General Washington, dated Head Quarters, September 11, 1782, and enclosing a return of recruits. It is in No. 152, X, folio 723.

him by these presents, we do hereby further authorise and empower him, from time to time, by commission under his hand and seal, to nominate and constitute such and so many commissioners as he shall judge necessary, to meet, treat, confer and agree with commissioners to be appointed and competently authorised on the part of the king of Great Britain, touching the terms, conditions and stipulations, for subsisting, better treating and exchanging all prisoners of war as aforesaid, as well as for liquidating and settling all accounts and claims whatsoever, respecting the maintenance and subsistence of prisoners of war on either side. And we do hereby declare that the engagements concluded upon by our said Commander in Chief in the premises, being mutually interchanged with the party contracting on behalf of the crown and nation of Great Britain, shall be binding and conclusive on the United States of America.

In testimony whereof we have caused these our letters to be made patent, and the great seal of the United States of America to be thereunto affixed. Witness his Excellency John Hanson, President of the United States in Congress assembled, the 16th day of September, in the year of our Lord one thousand seven hundred and eighty-two, and of our sovereignty and independence the seventh.¹

Ordered, That the proceedings of Congress of the 24 of May be not printed until the further order of Congress, and that members applying be furnished with authenticated copies.

On the report of a committee, consisting of Mr. [Ezekiel] Cornell, Mr. [Samuel John] Atlee and Mr. [Daniel] Carroll, to whom was referred a letter of the 27 of August from the Secretary at War, relative to the contingent expences incurred in the absence of the Commander in Chief, and the commanding officer of the southern army.

Resolved, That the Secretary at War be, and he is hereby authorised to issue his warrant on the paymaster general, for such sums of money as he may find it necessary to advance for the expences of such officers or expresses as may be sent to this city on public business, either by the Commander in Chief or the commanding officer of the southern army. An account of such advance shall be transmitted to the general

¹ This commission is in the *Washington Papers*, vol. 98, folio 181.

who shall have sent the officer or express, to be accounted for in the adjustment of their expences.¹

On the report of a committee, consisting of Mr. [Samuel] Osgood, Mr. [Ezekiel] Cornell and Mr. [Daniel] Carroll, to whom was referred a letter of 9, from the Secretary for foreign affairs, requesting leave of absence for a few weeks:

Resolved, That the Secretary for foreign affairs have leave of absence agreeable to his request.

Ordered, That a paragraph of Mr. Laurens's letter of 30th May. 1782, relative to the salary due to Moses Young as private Secretary to Mr. H. Laurens be referred to the Superintendent of Finance to take order.²

[Motion Respecting Mr Dumas. September 16, 1782. Referred to "the Committee on Salaries to foreign ministers," Mr James Madison, Mr Arthur Lee, Mr James Duane.]

Resolved, That there be allowed to Dumas Esq. Agent for the U. S. at the Hague a salary after the rate of ~~£400 Sterling~~ Dollars per annum to be computed from the 1st day of Jany. last.³

Resolved, That the Commander in Chief be directed not to agree to the Exchange of Earl Cornwallis for the Honorable Mr Laurens; but that he be instructed in consideration of the assurance given to the British Ministry by Mr Laurens to allow for him such a number of officers as by composition may be equal in Rank to a Lieutenant General provided that Lieutenant Colonel Tarleton be not of that number, the many wanton cruelties and barbarities committed by Earl Cornwallis and Lieut. Col. Tarleton on the citizens of the U. S. contrary to the usage of war amongst civilized nations being of so enormous a nature that Congress hold their conduct in the utmost abhorrence and detestation.⁴

¹ This report, in the writing of a clerk, is in the *Papers of the Continental Congress*, No. 27, folio 193.

² This order was entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

³ This motion, in the writing of James Duane, is in the *Papers of the Continental Congress*, No. 25, II, folio 203.

⁴ This resolution, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 19, III, folio 461. It was offered this day, according to Committee Book, No. 186, and referred to Mr. [John] Rutledge, Mr. [James] Duane and Mr. [James] Madison.

TUESDAY, SEPTEMBER 17, 1782¹

On the report of a committee, consisting of Mr. [John] Rutledge, Mr. [James] Duane and Mr. [James] Madison, to whom were referred a motion of Mr. [John] Rutledge, and a letter of 30 May from the Hon. H. Laurens, wherein he informs, that "on the 10th of that month he received from Dr. Franklin a formal notification of his appointment in the commission for treating with Great Britain, and also a copy of the said commission; that he left London on the 11, and arrived at Ostend on the 15, from whence he informed Dr. Franklin that he declined the honour of that office."

Resolved, That the Hon. Henry Laurens be informed, in answer to his letter of the 30th May, 1782, that the reasons which induced the United States in Congress assembled, to appoint him to be one of their ministers plenipotentiary for negotiating a peace still existing, his services in the execution of that trust cannot be dispensed with.

On the question to agree to this, the yeas and nays being required by Mr. [Ralph] Izard,

<i>New Hampshire</i> ,			<i>New Jersey</i> ,		
Mr. Gilman,	ay	} *	Mr. Boudinot,	ay	} ay
<i>Massachusetts</i> ,			Condict,	no	
Mr. Osgood,	ay	} ay	Witherspoon,	ay	
Jackson,	ay		<i>Pennsylvania</i> ,		
<i>Rhode Island</i> ,			Mr. Montgomery,	ay	} ay
Mr. Cornell,	ay	} ay	Smith,	ay	
Howell,	ay		Clymer,	ay	
<i>Connecticut</i> ,			Atlee,	no	
Mr. Huntington,	ay	} ay	<i>Delaware</i> ,		
Dyer,	ay		Mr. McKean,	ay	} *
<i>New York</i> ,			<i>Maryland</i> ,		
Mr. Duane,	ay	} ay	Mr. Hanson,	ay	} div.
L'Hommedieu,	ay		Carroll,	no	

¹ The proceedings for this day were also entered in the manuscript Secret Journal, Foreign Affairs.

<i>Virginia,</i>			<i>South Carolina,</i>		
Mr. Madison,	ay	}	Mr. Rutledge,	ay	}
Bland,	ay		Ramsay,	ay	
Lee,	ay		Izard,	ay	
<i>North Carolina,</i>			Gervais,	ay	}
Mr. Williamson,	ay	*	Middleton,	ay	
			<i>Georgia,</i>		
			Mr. N. W. Jones,	ay	}
			Few,	ay	

So it was resolved in the affirmative.

Resolved, That the Hon. John Adams, Benjamin Franklin, John Jay and Henry Laurens, be respectively informed, that it is the pleasure and express direction of Congress, that they punctually attend and assist in the negotiations for peace; and that each of them be instructed, upon receiving information of the time and place appointed for opening the negotiations, immediately to give notice thereof to the rest that may be in Europe, in order that each may have a seasonable opportunity to take part in the trust reposed by the said commission, and earnestly enjoined by this act.¹

Resolved, That the sum of one half million of dollars of the money borrowed by Mr Adams in Holland be appropriated toward the payment of the interest due on Loan Office Certificates and other public liquidated debts due to the citizens of these U. S. and that the Superintendent of Finance take order that the above sum be imported as soon as a safe opportunity offers.²

¹ This and the preceding resolution are in the *Papers of the Continental Congress*, No. 19, III, folio 465, and are in the writing of James Duane. The vote is indorsed on the report.

² This motion, in the writing of Joseph Montgomery, is in the *Papers of the Continental Congress*, No. 26, folio 382. According to Committee Book No. 186, it was referred on this day to Mr. [James] Duane, Mr. [Daniel] Carroll, Mr. [Jonathan] Jackson, Mr. [Hugh] Williamson and Mr. [John] Rutledge. According to Committee Book No. 191, a report was delivered September 18, "That the measure is improper," and filed.

On this day, according to the indorsement, was read a letter of June 29 from the Marquis de la Fayette. It is in No. 156, folio 294.

WEDNESDAY, SEPTEMBER 18, 1782

On motion of Mr. [Daniel] Carroll, seconded by Mr. [David] Howell,

Resolved, That the sum of one million two hundred thousand dollars required to be raised by the resolution of the 4th, and which was quotaed upon the several states by an act of the 10th of the present month of September, be, when received, credited to the accounts of the several states on interest, to be hereafter adjusted agreeably to the resolution of the 6th of October, 1779.¹

According to order, Congress proceeded to the election of a judge-advocate; and, the ballots being taken, Major Richard Howell was elected, having been previously nominated by Mr. [Elias] Boudinot.

Mr. [James] Madison, Mr. [Ralph] Izard, Mr. [John] Witherspoon and Mr. [George] Clymer, four of the committee appointed pursuant to the resolution of the 17 June last, to enquire fully into the proceedings of the department of foreign affairs, having executed the business of their appointment, reported the result of their enquiries, which was read.

The Committee * appointed to enquire into the proceedings of the Secty. for the Department of Foreign Affairs, Report,

That they have in pursuance of their appointment enquired fully into the proceedings of the said Department from the Institution thereof down to the 1st day of July last.

That it appeared to the committee that conformably to the duty assigned to the said Secretary in the second clause of the act which models his Department a proper attention has been given to the custody and arrangement of the books and papers belonging to it, of which books and papers a list is herewith laid before Congress.

That in discharge of the other duties assigned to the said Secretary in the act above referred to, and in subsequent resolutions of Congress, the following letters have been written by him.

¹ This motion, in the writing of Daniel Carroll, is in the *Papers of the Continental Congress*, No. 36, I, folio 385.

* M^r Lowell one of the Committee having left Congress before the inquiry was completed is not to be considered as a party to this Report.—Note in the report.

I. Letters to the Ministers of the U. States and others in foreign parts,

To the Minister Plenipo: at the Court of Versailles 14 letters, dated:

Oct. 20, 1781.
do. 24, do.
Nov. 24, do.
do. 26, do.
Dec. 16, do.
Jany. 7, 1782.
do. 23, do.
do. 26, do.
Feby. 13, do.
March 9, do.
May 22, do.
do. 30, do.
June 23, do.
July 5, do.

To the Minister Plenipo: at the Court of Madrid 10 letters, dated:

Nov. 1, 1781.
do. 28, do.
Dec. 13, do.
Feby. 2, 1782.
March 8, do.
April 16, do.
do. 27, do.
do. 28, do.
May 9, do.
June 23, do.

To the Minister Plenipo: at the Hague 8 letters, dated:

Oct. 23 & 24, 1781.
Nov. 1, do.
do. 20, do.
Dec. 26, do.
Jany. 9, 1782.
March 5, do.

May 22, 1782.

do. 29, do.

do. 30, do.

To the Minister at the Court of Petersburg 5 letters, dated:

Oct. 22, 1781.

March 2, 1782.

May 10, do.

do. 22, do.

do. 29, do.

To the Secretary to the legation at Madrid 2 letters, dated:

Dec. 20, 1781.

May 1, 1782.

To the Consul for France 4 letters, dated:

Nov. 28, 1781.

April 19, 1782.

May 29, do.

do. 31, do.

To the agent at the Havana 1 letter dated:

Feby. 26, 1782.

To M^r Dumas, 1 dated:

Nov. 28, 1781.

To Messrs. de Neufville & Son 1 dated:

Dec. 27, 1781.

To M^r Harrison at Cadiz 3, dated:

Dec. 20, 1781.

Feby. 13, 1782.

May 21, do.

To Samuel Parsons at Martinique 1 letter dated:

Jany. 12, 1782.

These letters consist chiefly, 1, of a communication of political and military occurrences within the U. States. 2, of resolutions and instructions of Congress. 3, hints relative to the proceedings of those to whom the letters were respectively addressed. 4, request of political information relative to the countries in which they respectively reside.

II. To the Minister Plenipoten-	Jany. 31, 1782.
tiary of France 13 letters, dated:	Feby. 20, do.
Oct. 24, 1781.	May 8, do.
Nov. 2, do.	do. 9, do.
do. 6, do.	June 7, do.
do. 21, do.	2 notes dated:
Dec. 10, do.	May 12, do.
do. 21, do.	July 3, do.
Jany. 19, 1782.	

Some of these letters and notes inclosed Resolutions of Congress; others related to the cases and applications of foreigners and other matters within the Department of foreign affairs.

III. To the Governours and Presidents of the States letters of the following dates and on the following subjects:

(Circular) Nov. 12, 1781, Requesting an authenticated state of damages sustained from the Enemy.

(Circular) Feby. 18, 1782, Inclosing resolutions of Congress touching a Consular Convention with France and requesting authenticated documents respecting territorial claims in pursuance of directions of Congress.

(Circular) Feby. 19, 1782, Transmitting in pursuance of the direction of Congress communications made to them by the Minister Plenipotentiary of France.

(Circular) May 2, 1782, Communicating, in pursuance of directions of Congress, the refusal of the British Court to accede to the Mediation of the Courts of Vienna and Petersburgh, and urging the necessity of vigorous preparations for the war.

(Circular) May 9, 1782, Announcing the birth of a Dauphin, in pursuance of the direction of Congress.

To the Governour of Connecticut, Jany. 22, 1782, inclosing copies of certain letters from S. Deane, in pursuance of the direction of Congress.

To the same, June 12, 1782, On the subject of the said Governor's answer to a letter from S. Deane.

To the Governour of South Carolina, Feby. 19, 1782, Communicating intelligence received from M^r Harrison at Cadiz.

Upon the whole the Committee Report that the business of this Department appears to have been conducted with much industry, attention and utility, and without any errors or defects worthy of being taken notice of to Congress. Such improvements and alterations in the general plan of the business as were judged by the Committee proper they have taken the liberty of suggesting to the Secretary in the course of their inquiry. As far as these suggestions can be of use, the Committee have no doubt that they will be attended to.¹

¹ This report, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 25, II, folio 131. The list of books and papers is on folio 73 and is as follows:

List of the Books and Papers kept in the office of foreign affairs.

BOOKS.

1. Book of Foreign Letters.
 2. Book of American Letters.
 3. Book of Resolutions of Congress.
 4. Journal of daily Transactions.
 5. Book of Reports made to Congress.
 6. Letters of the late Committee for foreign affairs.
 7. A Book containing commissions and instructions to the Ministers at Foreign Courts.
 8. One more Secret do.
 9. A Book of the letters of the Commissioners in France while M^r Adams was among them.
 10. Communications of Mons. Gerard.
 11. do. of the Chev^r de la Luzerne
 12. Letters of M^r J. Adams.
 13. Letters of M^r Arthur Lee.
- } not compleated.

PAPERS.

- 1st Box. 1. Joint letters from the Commission^{rs} of Congress at Paris.
 2. Letters from the Hon'ble B. Franklin.
 3. Letters from the Hon'ble H. Laurens.
 4. Letters from the Hon'ble J. Laurens.
 5. Letters from M^r T. Barclay.
 6. Correspondence between M^r Adams and Count Vergennes.
- 2nd Box. 1. Letters from the Hon'ble J. Jay.
 2. Letters from the Hon'ble W. Carmichael.
 3. Letters from M^r R. Harrison.
- 3rd Box. 1. Letters from the Hon'ble John Adams.
 2. Letters from F. Dana Esq.
- 4th Box. 1. Letters from M^r Dumas.
 2. Letters from M^r J. de Neufville.

The Superintendent of finance, to whom was referred a resolve of the house of delegates of Virginia of the 2d of July last, having reported a resolution, and the same being postponed, a motion was made by Mr. [Abraham] Clark, seconded by Mr. [John] Rutledge,

“That the commissioners appointed to settle the accounts of the several states agreeably to the act of the 20 of February, 1782, be directed to examine, receive and destroy so much of the old continental money as may be in the treasury of any of the states, not exceeding the quota of such State as fixed by the act of Congress of the 18 of March, 1780, and transmit to the Superintendent of finance accounts of the moneys so destroyed.”¹

A motion was made by Mr. [Samuel] Osgood, seconded by Mr. [Jonathan] Jackson, to strike out the words, “not exceeding the quota of such State as fixed by the act of Congress of the 18th March, 1780.”

And on the question, shall those words stand? the yeas and nays being required by Mr. [Samuel] Osgood,

<i>Massachusetts,</i>			<i>New York,</i>		
Mr. Osgood,	no	} no	Mr. L’Hommedieu,	ay	} *
Jackson,	no		<i>New Jersey,</i>		
<i>Rhode Island,</i>			Mr. Clark,	ay	} ay
Mr. Cornell,	no	} no	Boudinot,	ay	
Howell,	no		Condict,	ay	
<i>Connecticut,</i>			Witherspoon,	ay	
Mr. Huntington,	ay	} ay	<i>Pennsylvania,</i>		
Dyer,	ay		Mr. Smith,	ay	} ay
			Clymer,	ay	

[Footnote—Continued.]

5th Box. Letters from Messrs. Deane, Izard &c.

6th Box. Letters from Messrs. Bingham, Parsons &c.

7th Box. Letters, Notes, Memorials and communications of the Chev^r de la Luzerne.

8th Box. Original papers relative to complaints referred to the office of foreign affairs.

9th Box. Miscellaneous Letters and papers.

The report and list are recorded in the *Papers of the Continental Congress*, No. 188. Reports of Committees, folios 5–12.

¹ This motion, in the writing of Abraham Clark, is in the *Papers of the Continental Congress*, No. 36, I, folio 387.

<i>Delaware,</i>			<i>North Carolina,</i>		
Mr. McKean,	ay	} *	Mr. Williamson,	ay	} ay
<i>Maryland,</i>			Blount,	ay	
Mr. Hanson,	ay	} ay	<i>South Carolina,</i>		
Carroll,	ay		Mr. Rutledge,	ay	} ay
Wright,	ay		Izard,	ay	
<i>Virginia,</i>			Gervais,	ay	
Mr. J. Jones,	ay	} ay	Middleton,	ay	
Madison,	ay		<i>Georgia,</i>		
Bland,	ay		Mr. N. W. Jones,	ay	} ay
		Few,	ay		

So it was resolved in the affirmative.

The question was then taken on the motion, and resolved in the affirmative.

Ordered, That the letter of 15th June from Doctor Franklin to the Superintendent of Finance as far as it relates to money matters be referred to Mr. [Arthur] Lee, Mr. [Ralph] Izard and Mr. [James] Duane.

That so much of the above letter of Dr. Franklin to the Superintendent of Finance as relates to Captain Gillon be referred to Mr. [Theodorick] Bland, Mr. [Jonathan] Jackson and Mr. [David] Howell.

Ordered, That a motion of Mr. [Samuel] Osgood "for Crediting the States for the sums of Old Continental Money in their respective treasuries over and above the quotas assigned by a resolution of 18th March, 1780, according to the current value thereof compared with Gold and Silver at the time when such State had delivered over its proportion to the loan Officer" be referred to the Grand Committee.¹

The Committee consisting of M^r [James] Duane, M^r [Daniel] Carroll, M^r [Jonathan] Jackson, M^r [Hugh] Williamson and M^r [John] Rutledge, to whom was committed the motion of M^r. [Joseph] Montgomery of yesterday, beg leave to report,

That they have examined into the present state of the Treasury, the supplies for the army and the engagements and prospects of the Superintendent of the Finances; and are of opinion that the appropriation of any part of the Dutch loan for the discharge of the interest of domestic debts, or for any other purpose than the immediate sup-

¹ These orders were entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings.*

port of the army, may endanger the public safety; and that the motion referred to your Committee ought therefore to be rejected.¹

THURSDAY, SEPTEMBER 19, 1782²

On the report of a committee, consisting of Mr. [Arthur] Lee, Mr. [Ralph] Izard and Mr. [James] Duane, to whom was referred the letter of the 25th and 29th of June, 1782, from Dr. Franklin, and of the 25th of June, from Mr. Jay,

Resolved, That a commission and instructions issue to _____ for negotiating a treaty of amity and commerce with the king of Sweden.

Resolved, That a committee be appointed to prepare a commission and instructions and a draft of a treaty, agreeable to the above resolution.

The committee—Mr. [Arthur] Lee, Mr. [Ralph] Izard and Mr. [James] Duane.

[*Ordered*.] That a letter of 19th September, from Superintendent of Finance relative to the instructions given to Mr. Barclay, Consul General, 10th July, 1781, be referred to Mr. [James] Duane, Mr. [Joseph] Montgomery and Mr. [Daniel] Carroll.³

¹ This report, in the writing of James Duane, is in the *Papers of the Continental Congress*, No. 26, folio 375. It was delivered on this day, as the indorsement shows.

On this day a letter of the same day from the Superintendent of Finance was read. It is in No. 137, I, folio 761.

Also, on this day, as the indorsement indicates, was read a letter of March 30 from the Marquis de Lafayette. It is in No. 156, folio 278, and is a duplicate of the one on folio 270, which was read on May 27.

Also, a letter from General Washington, dated Head Quarters September 16, relative to a general cartel. It is in No. 152, X, folio 731.

² The proceedings for this day were entered only in the manuscript Secret Journal, Foreign Affairs, and in Secret Journal No. 4. A copy is in Secret Journal No. 6, Vol. III.

³ This order was entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

On this day, as the indorsement indicates, a letter of the same date was read from the Secretary at War, transmitting the request of Joseph King that he be permitted to join the corps of invalids. It was referred to Mr. [Abraham] Clark, Mr. [Ezra] L'Hommedieu, Mr. [Theodorick] Bland. It is in the *Papers of the Continental Congress*, No. 149, I, folio 697, and the inclosures on folios 687-693.

FRIDAY, SEPTEMBER 20, 1782¹

A motion was made by Mr. [James] Madison, seconded by Mr. J[oseph] Jones,

That the resolution of the 17 day of September, 1782, informing Mr. Laurens that his services as a minister plenipotentiary for negotiating peace cannot be dispensed with by Congress, and so much of the other resolution of the same date as relates to Mr. Laurens, be not transmitted till the further order of Congress.

On the question to agree to this, the yeas and nays being required by Mr. [Turbett] Wright,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	ay } *		Mr. McKean,	no } *	
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Osgood,	no } no		Mr. Hanson,	ay } ay	
Jackson,	no } no		Carroll,	ay } ay	
<i>Rhode Island,</i>			Wright,	ay } ay	
Mr. Howell,	ay } *		<i>Virginia,</i>		
<i>Connecticut,</i>			Mr. J. Jones,	ay } div.	
Mr. Huntington,	no } no		Madison,	ay } div.	
Dyer,	no } no		Bland,	no } div.	
<i>New York,</i>			Lee,	no } div.	
Mr. Duane,	no } no		<i>North Carolina,</i>		
L'Hommedieu,	no } no		Mr. Williamson,	no } *	
<i>New Jersey,</i>			<i>South Carolina,</i>		
Mr. Clark,	ay } ay		Mr. Rutledge,	no } no	
Boudinot,	no } ay		Ramsay,	no } no	
Condict,	ay } ay		Izard,	no } no	
<i>Pennsylvania,</i>			Gervais,	no } no	
Mr. Montgomery,	no } ay		Middleton,	no } no	
Smith,	ay } ay		<i>Georgia,</i>		
Clymer,	ay } ay		Mr. Jones,	no } no	
Atlee,	ay } ay		Few,	no } no	

So the question was lost.

¹ The proceedings for this day were also entered in the manuscript Secret Journal, Foreign Affairs.

MONDAY, SEPTEMBER 23, 1782

The Chevalier de la Luzerne, minister plenipotentiary of France, informed Congress in a note, that he has received orders to communicate to them a detail of circumstances relative to the negotiations for peace, and is desirous that Congress would be pleased to appoint a committee to receive the communications; and that he would at the same time inform Congress of sundry matters interesting to the common cause, and relating to the present state of affairs in Europe: Whereupon,¹

Resolved, That a committee of three be appointed to confer with the minister of France, and report the communications he shall make to them.

On the report of a committee, consisting of Mr. [James] Duane, Mr. [Joseph] Montgomery, and Mr. [Daniel] Carroll, to whom was referred a letter of the 19th, from the Superintendent of finance:

The Committee to whom was referred a letter from the Superintendent of Finance of the 19th of September submit the following report:

That by an Act of Congress of the 27th of November last the Superintendent of finance is authorised and directed to take under his care and management all loans or other monies obtained in Europe or elsewhere for the use of the United States subject to the approbation of Congress.

That by another Act of the 3^d of December the Superintendent of the finances of the United States is authorised and directed to apply and dispose of all monies which have been or may be obtained in Europe by subsidy loan or otherwise.

That by another Act of the 14th of September instant the several Ministers in Europe are instructed to conform strictly to the before recited resolutions.

¹ This paragraph and the resolution following it were entered only in the manuscript Secret Journal, Foreign Affairs. The rest of the proceedings for this day were entered both in the manuscript Secret Journal, Foreign Affairs, and in the Public Journal.

That that part of the instructions of the 10th of July, 1781, to Thomas Barclay Esq. which constitutes him commercial Agent of the United States and describes his office and authority is repugnant to the system adopted by Congress for arranging and conducting the Finances of these United States and particularly to the preceding resolutions, inasmuch as he is thereby left at liberty in certain cases to draw for public money in Europe, and has in fact exercised that power to a considerable amount. That if this practice should be continued it must greatly embarrass the publick Finances, it being essential that the expenditure of all the publick monies should be under the direction of the Superintendent.

Your Committee therefore are of opinion that additional instructions ought to be given to the said Consul, and beg leave to offer the following draft.

Congress agreed to the following additional instructions to Thomas Barclay, esq. consul-general of the United States of America in France:

Whereas by several acts of the United States in Congress assembled, all moneys which have been and may be obtained in Europe, by subsidy, loan, or otherwise, are placed under the direction and management of the Superintendent of the finances of the United States, and it is essential that the strictest regard should be paid to the said arrangement: you are therefore hereby instructed to desist from making any draughts of public money, or any purchase of cloathing or effects, for the use of the United States, without the special direction of Congress or the Superintendent of finance. In other respects, you are to conform to the instructions of the 10 July, 1781.¹

On motion of Mr. [John] Rutledge, seconded by Mr. [Arthur] Lee,

Resolved, That the minister plenipotentiary of the United States at the Court of Versailles, be informed that his letters to the Superintendent of finance and Secretary for foreign

¹ This report, in the writing of James Duane, is in the *Papers of the Continental Congress*, No. 19, I, folio 205. The letter of the Superintendent of Finance is in No. 137, I, folio 765.

affairs, bearing date respectively the 25 day of June last, have been laid before Congress, and that notwithstanding the information contained in those letters, it is the direction of Congress that he use his utmost endeavours to effect the loan which by the resolve of the 14th instant is ordered to be negotiated.¹

Ordered, That a letter of Count de Vergennes "respecting a capture of a Danish Vessel" be referred to the Agent of Marine to enquire and report.²

TUESDAY, SEPTEMBER 24, 1782³

The committee, consisting of Mr. [James] Duane, Mr. [Daniel] Carroll, Mr. J[oseph] Jones, Mr. [Ralph] Izard and Mr. [Theodorick] Bland, appointed to hold a conference with the honourable Chevalier de la Luzerne, minister of France, in pursuance of his note to Congress of the 23d, report—

That yesterday your committee held a conference with the minister of France, agreeably to the said appointment; the substance of which consisted in the communication of advices lately received by the said

¹ This motion, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 36, I, folio 391.

² This order was entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

A letter of 16 from the Governor of New York to the delegates in Congress from that State, relative to disturbances in Vermont, was read on this day, as the indorsement states, and referred to Mr. [Arthur] Middleton, Mr. [Joseph] Montgomery and Mr. [Theodorick] Bland. It is in the *Papers of the Continental Congress*, No. 40, II, folio 323. Committee Book No. 186 shows that a deposition of Joel Bigalow, on the same subject, was referred to the committee with the Governor's letter, and that the committee was renewed October 10. Bigalow's deposition, dated September 15, is in No. 40, II, folio 297. See *post*, October 10, *note*; and October 17, *report*.

Also a letter of 18 September from Oliver Pollock, which is in No. 50, folio 1, was read and referred to Mr. [Abraham] Clark, Mr. [James] Duane and Mr. [Hugh] Williamson.

³ The proceedings for this day were entered only in the manuscript Secret Journal, Foreign Affairs. They are printed in the *Diplomatic Correspondence of the American Revolution* (Wharton), V. 757.

minister of France, from his Excellency the Count de Vergennes, as follows:

The minister informed the committee he had received several despatches from his court, of which he thought it his duty to communicate an extract to Congress.

The first was dated 9th April last. It expressed the opinion of the Count de Vergennes, that the Court of St. James had formed a design to make a separate peace with one or more of the powers at war with it. That France was perfectly easy with respect to the disposition of Congress; and that the uniformity and steadfastness of their conduct did not leave the least doubt with regard to the part they would take in this circumstance. That the steps the king had taken on a similar occasion, and the disappointment of several British emissaries, was already known to Congress. That they had met with the same reception at Madrid; and there was the greatest probability that their intrigues would not be more successful at the Hague. The minister of France observed, that the glory and honour of the present confederacy, of which his Majesty was the centre, would be their having been inaccessible to artifice; and this extraordinary instance would be crowned with success if the four powers persisted invariably in a firm attachment to their union, and if, on the one hand, making the greatest exertions to procure the completest satisfaction, they, on the other hand, confined themselves within such bounds of moderation as would give no umbrage to any one of the powers at war with Great Britain. That the king had in different circumstances taken the proper measures to deprive the enemy of all hopes which they might have formed of introducing dissensions between his Majesty and his allies. That it was to be wished that the Court of London was fully convinced of the impossi-

bility of treating separately with America. That this had always been the chimerical and favourite idea of England; and that so long as it subsisted there would perhaps be no possibility of treating seriously about the conditions of a peace. That their negotiations would only be an artifice to scatter divisions among the allies, and retard their exertions for continuing the war. That the shortest way to put a stop to their intrigues would be to let it be known publickly in the most explicit manner, that the United States neither can nor will make any peace without the concurrence of their ally; and that if England has any overtures for peace to make to them, the American plenipotentiaries are sufficiently empowered to receive them, and to negotiate a peace if those overtures are admissible. That this peremptory language would free Congress from all the embarrassments which the English ministers could throw in the way; that it would bring them to a sincere disposition to make peace; put an end for ever to their machinations with the mediating powers; deprive them of the means of feeding the parliament and people of England with the hopes of a separate peace; and finally save the Americans from all the difficulties which would infallibly take place if England were allowed to negotiate in America. It would convince England that the United States are not less attached to their engagements with their ally than sensible of the respect due to the Courts of Vienna and Petersburg, whose mediation Congress have accepted. The minister added, that though the situation of the belligerent powers, the distance of America, and the slowness and difficulty of communication made it advantageous that the seat of negotiation should be in Europe, and that the enemy should be informed of this resolution, yet Congress had the fullest liberty to follow the system which France had pointed out in her answer to the

mediating powers, in consequence of which the American ministers might negotiate immediately and directly conformably to the instructions they had received from Congress; but the negotiations of France and America would be carried on in an equal progression, a continual and reciprocal communication would be given, and the two treaties signed at the same time, and one be ineffectual without the other.

The Count de Vergennes in the same despatch, gave information of the Dutch having acknowledged the independence of America, of which Congress are already informed.

The letters of 2d May and 28th June, urged the same point of referring the British negotiators in America to the American plenipotentiaries in Europe, with this addition in the letter of 2d May, that it was now evidently the object of Great Britain to lessen their exertions on this continent as much as in their power, and to adopt a defensive mode of carrying on the war; that being unable to support a double war by land and by sea, she proposed to suspend the one in order to carry on the other more effectually; and in case of success, to return against the United States with redoubled efforts.

The minister mentioned the attempts that had been alternately made at the Court of Versailles, and with the American plenipotentiaries, for a separate peace, and said, that Doctor Franklin had communicated his and Mr. Adams's answers to the British emissaries; that the king thought them firm and consistent with the principles of the alliance, and wished that Congress might be informed of the satisfaction they afforded him. That to remove forever such expectations it behooved the wisdom of Congress to declare, that no peace but a general one would be attended to; that when negotia-

tions are entered into with sincerity, the king would most readily employ his good offices in support of the United States in all points relating to their prosperity; that Congress were themselves sensible of the distinction between the conditions of justice and rigour, and those of convenience and compliance which depended on the good or bad situation of affairs; that though the circumstances of the allies were very promising, such events might happen as might make it advisable to adopt the part of moderation. But the best way to obtain every possible advantage was to preserve a perfect connexion, and to let them know that the United States would not only reject a separate peace, but that they would continue the war against the common enemy by all manner of ways, until their allies should also conclude a peace; that this declaration would convince the British ministers that they would not get rid of the Americans by merely acknowledging their independence; and that though they removed their troops from the continent, they would be attacked wherever found.

The despatch of the 28th June dwelt chiefly on the negotiation; and contained details which the Count de Vergennes directed the minister to make to Congress, but which have in a great measure been already transmitted to them by their ministers in Europe. These details related to the emissaries sent to Doctor Franklin and Mr. Adams, and their satisfactory answers. Mr. Oswald, in an interview with the Count de Vergennes, hinted to him the desire of the Court of London, and the necessity it was under to make peace; and received for answer, that the king was equally disposed to make an honourable and solid peace. Mr. Oswald went to London to carry this information; returned soon, and was immediately followed by Mr. Grenville, the intimate friend of Mr. Fox. Mr. Oswald repeated to Mr. Franklin

the assurances of the disposition of the cabinet of St. James; and Mr. Grenville, in answer to his overtures to the Count de Vergennes respecting the disposition of the king of Great Britain, was informed by the express order of the king, *That his Majesty was disposed to negotiate for peace, provided it was a general one, and the allies and friends of his Majesty were satisfied.* This answer was just given when the news of the action of the 12th of April reached Europe. Nevertheless, the king of Great Britain sent full powers to Mr. Grenville to negotiate the peace with his Majesty. In communicating them the English agent declared, *That the king of England, in order to facilitate peace, was disposed to treat of the independence of the United States with his Majesty, provided all other matters were put upon the footing of the treaty of 1763.*

To this the king answered—1st. *That the powers of Mr. Grenville were insufficient, as they did not mention the allies of his Majesty.* 2d. *That his Majesty could not himself negotiate for the interests of America, having no powers to this purpose; and that it became the dignity of the king of England and of the United States to open a direct negotiation on this subject.* 3d. *That in order to conclude a solid and lasting peace, it ought not to be founded upon the treaty of Paris, but upon justice and the dignity of all the contracting powers.*

The British ministry adopting these observations, sent new powers to Mr. Grenville, authorising him to treat with all the belligerent powers. Mr. Grenville presented to the Count de Vergennes a copy of these powers, and declared, *that the king of England, being disposed to acknowledge and declare directly the independence of America, it would no longer be a conditional article of peace.* And as to France, the English plenipotentiary

proposed *to take the treaty of Paris for the basis, not of the peace itself, but of the negotiations which were to be entered into.*

The Count de Vergennes, on the 21st June, communicated to Mr. Grenville the answer of the king. In this communication his Majesty declared his wishes for the restoration of peace, and his satisfaction that the king of Great Britain was disposed to treat with all the belligerent powers, and that he intended to make a direct acknowledgment and declaration of the independence of the United States of America, and that this point would no longer be a conditional article of a general pacification. That the king consents to adopt, according to the proposition of the king of England, the treaty of Paris for a basis of the negotiation, not as a confirmation of all its stipulations, but with exceptions and alterations respecting the East Indies, Africa, the fisheries of Newfoundland, and commercial regulations in Europe to mutual advantage. Restitution and compensation to be treated of, when the negotiation shall be established with respect to which the king will be governed by the principles of justice and moderation, which are the basis of his policy. If these overtures are agreeable to the king of England, his Majesty will explain himself precisely on the different points. His Majesty expects that his Britannick Majesty will make to all the belligerent powers and states, without delay, such overtures as he may think conducive to promote the negotiation as far as it respects their interests. That no doubt may be left with respect to his Majesty's sentiments, he declares anew, that he will neither treat nor terminate any negotiation, unless the interests of his allies and friends shall be conjunctly discussed and determined, or separately, according to

the wishes of his Britannick Majesty and the allied and friendly powers of his Most Christian Majesty.

Such was the state of affairs on the 28th of June, at which time there appeared some obstructions to the negotiation, owing, as it was believed, to the misunderstanding which prevailed among the British ministers. Tergiversations were discovered on the part of the British negotiator. The bill authorising the king of England to treat with the colonies of America had not then passed. These uncertainties made it essential to guard against British emissaries on the continent of America; and to prevent with all care their admission; and to recommend the same measure to the several legislatures.

The minister finished the conference by informing the committee of the fortitude of the king on receiving the news of the action of the 12th of April. He immediately gave orders for constructing twelve ships of the line, the greater part of the first rate. The city of Paris and several other cities and corporations had offered some others, and it was expected that the king would, in the course of next campaign, have twenty new ships to oppose the enemy. His Majesty was resolved not to make the least alterations in his plans for the future negotiation; and he exhorted his allies to the same resolution and to the same exertions.

Ordered, That the foregoing communications be referred to a committee of five to report.

The committee—Mr. [James] Duane, Mr. [John] Rutledge, Mr. [Joseph] Montgomery, Mr. [James] Madison and Mr. [Daniel] Carroll.

Ordered, That a report of the Secretary at War and an Estimate of Cloathing necessary for the Oneida and other Tribes of Indians re-

ported by the Commissioners for Indian Affairs Northern Department be referred to the Superintendent of Finance to take order.¹

WEDNESDAY, SEPTEMBER 25, 1782

Congress took into consideration the report of a committee, consisting of Mr. [John] Witherspoon, Mr. [James] Madison, Mr. [John] Rutledge, Mr. [Samuel] Osgood, and Mr. [Joseph] Montgomery, to whom was referred a set of resolutions moved by Mr. [John] Witherspoon:

The report is as follows:

1. "That if the several states claiming the exclusive property of the western lands, would make cessions to the United States, agreeable to the recommendation of Congress of the 6th day of September, 1780, and the resolutions of Congress of the 10th of October, 1780, it would be an important fund for the discharge of the national debt.

2. "That therefore, it be recommended to those states which have made no cessions, to take the above recommendation and resolutions into consideration as soon as possible, and determine thereon.

3. "That it be recommended to those states which have made cessions not entirely agreeable to the above recommendation and resolutions, to re-consider the same, and send the result to the United States in Congress assembled.

4. "That in case of compliance with recommendations of Congress, the determinations of the particular states respecting private property and claims of lands within the cession, shall not be reversed or altered without their consent, unless in such cases as it may be rendered necessary by the 9th Article of the Confederation."

¹ This order was entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

On this, or a nearly approximating date, was read a letter of this date from Captain F. P. De La Plaigneurs. It was referred to the Secretary at War September 26. It is in the *Papers of the Continental Congress*, No. 78, VII, folio 453.

From this point the entries in the Public Journal are by George Bond.

A motion was made by Mr. [Abraham] Clark, seconded by Mr. [Silas] Condict, to strike out the last paragraph.

And on the question, shall the last or fourth paragraph of the report stand? the yeas and nays being required by Mr. [Theodorick] Bland,

<i>New Hampshire,</i>			<i>Virginia,</i>		
Mr. Gilman,	no	} *	Mr. Jones,	ay	} ay
<i>Massachusetts,</i>			Madison,	ay	
Mr. Osgood,	no	} no	Bland,	ay	
Jackson,	no		Lee,	ay	
<i>Connecticut,</i>			<i>North Carolina,</i>		
Mr. Huntington,	ay	} ay	Mr. Williamson,	ay	} ay
Dyer,	ay		Blount,	ay	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Duane,	no	} div.	Mr. Rutledge,	no	} no
L'Hommedieu,	ay		Izard,	no	
<i>New Jersey,</i>			Gervais,	no	
Mr. Clark,	no	} no	Middleton,	no	
Condict,	no		<i>Georgia,</i>		
<i>Pennsylvania,</i>			Mr. N. W. Jones,	no	} no
Mr. Montgomery,	no	} no	Few,	no	
Smith,	no				
Atlee,	no				
<i>Maryland,</i>					
Mr. Hanson,	no	} no			
Carroll,	no				
Wright,	no				

So it passed in the negative.

On the question to agree to the report as amended, the yeas and nays being required by Mr. [Abraham] Clark,

<i>New Hampshire,</i>			<i>New York,</i>		
Mr. Gilman,	ay	} *	Mr. Duane,	ay	} ay
<i>Massachusetts,</i>			L'Hommedieu,	ay	
Mr. Osgood,	ay	} ay	<i>New Jersey,</i>		
Jackson,	ay		Mr. Clark,	ay	} ay
<i>Connecticut,</i>			Condict,	ay	
Mr. Huntington,	ay	} ay			
Dyer,	ay				

<i>Pennsylvania,</i>			<i>North Carolina,</i>		
Mr. Montgomery,	ay	} ay	Mr. Williamson,	no	} no
Smith,	ay		Blount,	no	
Atlee,	ay		<i>South Carolina,</i>		
<i>Maryland,</i>			Mr. Rutledge,	no	} no
Mr. Hanson,	ay	} ay	Izard,	ay	
Carroll,	ay		Gervais,	no	
Wright,	ay		Middleton,	no	
<i>Virginia,</i>			<i>Georgia,</i>		
Mr. Jones,	no	} no	Mr. N. W. Jones,	no	} no
Madison,	no		Few,	no	
Bland,	ay				
Lee,	no				

So the question was lost.¹

The Committee to whom was referred the letter from M^r Laurens of the day of together with a paper enclosed to Congress by D^r Franklin submit the following Report,

That it appears from the papers referred to the Committee that M^r Laurens did at the time of his discharge from captivity authorise an expectation in the British Ministry that Earl Cornwallis should in exchange be absolved from his Parole.

That the Minister Plenipo. at the Court of Versailles in consequence of the Representations and request of M^r Laurens did by an instrument bearing date the 9th of June last absolve the said Earl Cornwallis from his parole, reserving however to Congress the confirmation or disapprobation of the measure.

That from a comparative view of the British prisoners of war now in possession of the U. S. and of Americans prisoners of war to the British King, there appears little probability that the discharge of Earl Cornwallis will deprive the U. S. of the means of redeeming any of their Citizens from captivity.

That on a consideration of these circumstances the Committee are of opinion that altho' the exchange in question was not derived from due authority, and altho' it might better accord with the peculiar barbarities which characterise the said Earl Cornwallis in his prosecution of a war in itself the most barbarous of Modern Ages, to make him the last, instead of so early an object of indulgence, yet it is upon the whole expedient for Congress to confirm the Act by

¹ Here Charles Thomson resumes the entries.

which he has been set at liberty, and the Committee accordingly recommend,

That the Act or Instrument given at Passy the 9th day of June last by Benjamin Franklin, Minister Plenipo. of the U. S. at the Court of Versailles discharging L^t General Earl Cornwallis from the parole given by him in Virginia be confirmed, and that the said Earl Cornwallis be no longer considered as a prisoner of war to the U. S.¹

The Committee [Mr. Abraham Clark, Mr. Ezra L'Hommedieu and Mr. Theodorick Bland] to whom were referred the letter from Joseph King, with the papers accompanying the same, report,

That the said Joseph King was Adjutant in the 4th Jersey regiment, and badly wounded in an engagement in the year 1777 from which he hath no prospect of a recovery, so far as to enable him to obtain a support by labour; That in 1779 he became deranged by the reduction of the regiment; and as the Office of Adjutant was, by the arrangement then made, to be executed by any Officer of the Line, the said King could not exercise that Office, or hold any rank in the Invalid Corps, which he would otherwise have been entitled to; being thus circumstanced, there appears no practicable method of granting relief other than from the State to which he belongs, agreeable to the resolutions of Congress of the 26th of August 1776, for making provision for disabled officers and soldiers: Whereupon,

Resolved, That the letter of Joseph King with the papers accompanying the same, be referred to the Legislature of the State to which he belongs, to whom it is recommended to cause enquiry to be made into his claims on account of his being disabled in the service of the United States, and grant him half pay, or such other allowance as the particular circumstances of his case may entitle him to by the before mentioned resolutions, charging the same to the United States agreeably thereto.²

¹ This report, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 25, II, folio 135. The indorsement shows that it was read September 25, and recommitted September 26, with a motion of Mr. [James] Duane. According to Committee Book No. 186, "Transactions relative to the exchange of Lord Cornwallis for Mr. H. Laurens" were, on September 18, committed to Mr. [Ezekiel] Cornell, Mr. [James] Madison and Mr. [John] Rutledge, and "a member added 24." On September 26 the report was recommitted, with Mr. Duane's motion, to Mr. [James] Madison, Mr. [John] Rutledge and Mr. [Joseph] Montgomery, and on November 21 it was again recommitted to Mr. [James] Madison, Mr. [John] Rutledge and Mr. [Hugh] Williamson.

² This report, in the writing of Abraham Clark, is in the *Papers of the Continental Congress*, No. 22, folio 233. The indorsement shows that it was read on this day.

Ordered, That a motion of Mr. [Joseph] Montgomery "that a requisition be made to each State to provide ways and means for the payment of interest due on public liquidated Debts as also the half pay due or that may be due to retiring Officers" be referred to the Grand Committee.

That a Representation of the Legislature of New Jersey, respecting the Officers of the Jersey line, be referred to the Superintendant of Finance to report.¹

[THURSDAY, SEPTEMBER 26, 1782]

[Mr Duane's Motion 26th Sept. 1782. Referred to Mr James Madison Mr John Rutledge Mr Joseph Montgomery.]

Resolved, That it appears to Congress that the treatment which Mr Laurens received at the hands of the British Ministry, far from laying a foundation for acts of liberality towards prisoners of the enemy in our power calls for public indignation, and can never be remembered without resentment.

Resolved, That the tyrannical and inhuman conduct of Lord Cornwallis while he commanded the British Forces in the Southern States exposes him to just odium, and that he, of all men, is the last who ought to expect favour or indulgence from these States.

Resolved, That Congress cannot are not bound to ratify the conditional agreement made by their Minister Plen^y at the Court of Versailles for releasing Lord Cornwallis from his parole and referred to the approbation of Congress.

~~Resolved, therefore, that Lord Cornwallis shall be considered as a prisoner of war on his parole only to be exchanged on a general cartel stipulating for the payment of the subsistence of the British prisoners in the power of the United States~~

~~But that nevertheless from a respect to their public ministers who have gone so far into the measure of his release, and on no other consideration the Commander in Chief is instructed to declare the said Lord Cornwallis to be released from his parole, provided that valid arrangements shall first be made for paying or securing the large balance due to the United States for subsistence of the British prisoners of war.~~²

¹ These two orders were entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congress: onas Proceedings.*

² This motion, in the writing of James Duane, is in the *Papers of the Continental Congress*, No. 19, III, folio 445.

WAR OFFICE, Sept. 25, 1782.

SIR,

In obedience to the orders of Congress I have in company with the Clothier General examined the soldiers cloathing offered for sale by Mr Barclay. It is the uniform of the troops raised by the States south of Delaware, made of very coarse cloth, suitable in size for boys from twelve to fifteen years old. Mr Barclay informed that he understood they were prize goods taken on their passage to America, but by whom they were shipped, or in what bottom, he had no knowledge but could obtain the particulars by sending to St. Thomas.¹

SATURDAY, SEPTEMBER 28, 1782

Mr. William Hemsley, a delegate from Maryland, attended, produced credentials of his appointment, and took his seat in Congress.

ANNAPOLIS, 15th June 1782.

SIR,

In Obedience to a Resolve of the general Assembly we have the Satisfaction to inform you, that you are appointed a Delegate for this State in Congress.

We have the Honor to be with great Regard Sir

Y^r most ob^t hum^{bl} Servants

GEORGE PLATER

*Presid^t of the Senate*THO^s COCKEY DEYE*Speaker of the House of Delegates*

Hon: WILLIAM HEMSLEY

Queen Anns County²

¹ This report is in the *Papers of the Continental Congress*, miscellaneous. The indorsement says: Report of the Secretary at War September 25, 1782. On motion of Mr. [Arthur] Lee, to examine cloathing offered for sale at Barclay's store in the city of Philadelphia. Read September 25, 1782, referred to Mr. [Arthur] Lee, Mr. [David] Ramsay, Mr. [Turbett] Wright.

On September 26, according to the indorsement, a representation from the legislature of New Jersey, dated September 24, on the subject of pay for officers and soldiers was presented and referred to the Superintendent of Finance to report. It is in No. 68, folio 599.

On this date, according to the indorsement, was read a letter from General Washington, dated Head Quarters, September 22, and enclosing intelligence from New York. It is in No. 152, X, folio 735.

² The original is in the *Papers of the Continental Congress*, Maryland, *Credentials of*

On the report of the committee, consisting of Mr. [Arthur] Lee, Mr. [Ralph] Izard and Mr. [James] Duane, appointed to prepare a commission and instructions, and a draft of a treaty of amity and commerce with the king of Sweden, Congress, by the vote of nine states, agreed to the following

PLAN OF A TREATY OF AMITY AND COMMERCE BETWEEN
THE UNITED STATES AND THE ~~UNITED PROVINCE OF~~
~~THE LOW COUNTRIES~~ KING OF SWEDEN.

The parties being willing to fix, in a permanent and equitable manner, the rules to be observed in the commerce they desire to establish between their respective countries, have judged that the said end cannot be better obtained than by taking the most perfect equality and reciprocity for the basis of their agreement; by leaving each party at liberty to make such interior regulations respecting commerce and navigation as it shall find most convenient; and by founding the advantage of commerce on reciprocal utility and the just rules of free intercourse. On these principles the parties, after mature deliberation, have agreed to the following articles:

ARTICLE I.

There shall be a firm, inviolable and universal peace and sincere friendship between ~~their High Mightinesses the States of the seven United Provinces of the Low Countries~~ the king of Sweden, his heirs and successors,

Delegates. It was entered in No. 179, *Record of Credentials*, and not in the Journals.

From this point the proceedings for the day were entered only in the manuscript Secret Journal, Foreign Affairs, and in Secret Journal, No. 4. A copy is in Secret Journal, No. 6, Vol. III.

and the United States of America, and the ~~subjects and people of~~ citizens and subjects of the said parties, and the countries, islands, cities and towns situated under their respective jurisdictions, and the people and inhabitants thereof of every degree, without exception of persons or places.

~~ARTICLE 2D.~~

~~The subjects of the said King shall pay in the ports, havens, roads, countries, islands, cities or towns of the United States of North America or any of them no other or greater duties or imposts of what nature soever they may be, or by what name soever~~ ~~Recommitted.~~ ~~called, than those which the nations most favored are, or shall be obliged to pay, and they shall enjoy all the necessary rights, liberties, privileges, immunities and exemptions in trade, navigation and commerce, as well in passing from one port in the United States to another, as in going to and from the same, from and to any part of the world.~~

~~ARTICLE 3d~~

~~The citizens or inhabitants of the said United States shall enjoy all necessary rights, liberties, privileges and immunities and exemp-~~ ~~Recommitted.~~ ~~tions in trade, navigation and commerce as well in passing from one port in the dominions of the said King to another, as in going to and from the same from and to any part of the world.¹~~

ARTICLE II.

The subjects of the said king may freely resort to and reside in the United States, and may trade in any effects or merchandises, the importation or exportation of which are not or shall not be prohibited; and shall pay in the ports, havens, roads, countries, islands, cities or towns of the United States, no other or greater duties or imposts whatsoever than those which the most favoured European nations are or shall be obliged to pay; and they shall enjoy all the rights, liberties

¹ This article is in the writing of Arthur Lee in the report.

and exemptions in trade, navigation and commerce, whether in passing from one port in the said states to another, or in going to and from the same, from and to any part of the world, which the said nations do or shall enjoy.¹

ARTICLE III.

In like manner, the citizens and inhabitants of the United States of America may freely resort to and reside in the dominions of his Swedish Majesty, and may trade in any effects or merchandises, the importation or exportation of which are not or shall not be prohibited, and shall pay in the ports, havens, roads, countries, islands, cities or towns within the dominions of the king of Sweden no other or greater duties or imposts whatsoever than those which the most favoured nations are or shall be obliged to pay; and they shall enjoy all the rights, liberties and exemptions in trade, navigation and commerce, whether in passing from one port in the dominions of the king of Sweden to another, or in going to and from the same, from and to any part of the world, which the said nations do or shall enjoy.

ARTICLE IV.

~~Their High Mightinesses the States of the seven United Provinces of the Low Countries~~ The king of Sweden shall endeavour, by all the means in ~~their~~ his power, to protect and defend all vessels and other effects belonging to the ~~people~~ citizens or inhabitants of the said United States of America, or any of them, being in ~~their~~ his ports, havens, or roads, or on the seas near to ~~their~~ his countries, islands, cities or towns; and to recover and cause to be restored to the right owners their vessels and effects, as shall be taken within ~~their~~ his

¹This article, in the report, is in the writing of James Madison.

jurisdiction. ~~Their~~ His ships of war, or any convoys sailing under ~~their~~ his authority, shall upon all occasions take under their protection all vessels belonging to the ~~subjects, people or inhabitants~~ citizens or inhabitants of the said United States of America, or any of them, holding the same course, or going the same way, and shall defend such vessels as long as they hold the same course, or go the same way, against all attacks, force and violence, in the same manner as they ought to protect and defend vessels belonging to the subjects of ~~their High-Mightinesses~~ his said Majesty.

ARTICLE V.

In like manner the said United States and their ships of war sailing under their authority shall protect and defend, conformably to the tenor of the preceding article, all the vessels and effects belonging to the subjects of the king of Sweden; and use all their endeavours to recover and cause to be restored, the said vessels and effects that shall have been taken within the jurisdiction of the said United States.¹

ARTICLE VI.

It is further agreed and concluded, that it shall be wholly free for all merchants, commanders of ships and other subjects of ~~their High-Mightinesses the States of the Seven United Provinces of the Low Countries~~ the king of Sweden, in all places subject to the dominion and jurisdiction of the said United States of America, to manage their own business themselves, or to employ whomsoever they please to manage it for them; nor shall they be obliged to make use of any interpreter or broker, nor to pay any salary or fees, unless they choose to make use of them. Moreover, masters of

¹ This article is in the writing of Arthur Lee, in the report.

ships shall not be obliged in loading or unloading their ships to make use of those workmen that may be appointed by publick authority for that purpose; but it shall be entirely free for them to load or unload their ships by themselves, or to make use of such persons in loading or unloading the same as they shall think fit, without paying any fees or salaries to any other whomsoever; neither shall they be forced to unload any sort of merchandise either into any other ships, or to receive them into their own, or to wait for their being loaded longer than they please; and all and every the citizens, people and inhabitants of the said United States of America shall reciprocally have and enjoy the same privileges and liberties in all places whatsoever subject to the jurisdiction of ~~their High Mightinesses the States of the Seven United Provinces of the Low Countries~~ the said king.

ARTICLE VII.

The merchant ships of either of the parties which shall be making into a port belonging to the enemy of the other ~~ally~~ power, and concerning whose voyage and the species of goods on board her there shall be just grounds of suspicion, shall be obliged to exhibit ~~as well upon the high seas as in the ports and havens~~ not only her passports, but likewise certificates expressly showing that her goods are not of the number of those which have been prohibited as contraband.

ARTICLE VIII.

If by exhibiting the above said certificates the other party discover there are any of those sort of goods which are prohibited and declared contraband, and consigned for a port under the obedience of his enemy,

it shall not be lawful to break up the hatches of such ship, or to open any chest, coffers, packs, casks, or any other vessels found therein, or to remove the smallest parcel of her goods, whether such ship belongs to the subjects of ~~their High Mightinesses the States of the Seven United Provinces of the Low Countries~~ the said king, or the citizens or inhabitants of the said United States of America, unless the lading be brought on shore in the presence of the officers of the court of admiralty, and an inventory thereof made; but there shall be no allowance to sell, exchange or alienate the same, in any manner, until after that due and lawful process shall have been had against such prohibited goods, and the court of admiralty shall by a sentence pronounced have confiscated the same, saving always as well the ship itself, as any other goods found therein, which by this treaty are to be esteemed free; neither may they be detained on pretence of their being as it were infected by the prohibited goods; much less shall they be confiscated as lawful prize. But if not the whole cargo, but only part thereof, shall consist of prohibited or contraband goods, and the commander of the ship shall be ready and willing to deliver them to the captor who has discovered them; in such case, the captor having received those goods, shall forthwith discharge the ship, and not hinder her by any means freely to prosecute the voyage on which she was bound. But in case the contraband merchandises cannot be all received on board the vessel of the captor, then the captor may, notwithstanding the offer of delivering him the contraband goods, carry the vessel into the nearest port, agreeable to what is above directed.

ARTICLE IX.

On the contrary, it is agreed that whatever shall be found to be laden by the subjects and inhabitants of either party on any ship belonging to the enemies of the other, or to their subjects, the whole, although it be not of the sort of prohibited goods, may be confiscated in the same manner as if it belonged to the enemy, except such goods and merchandises as were put on board such ship before the declaration of war; or even after such declaration, if it were done without knowledge of such declaration, so that the goods of the subjects and people of either party, whether they be of the nature of such as are prohibited, or otherwise, which, as is aforesaid, were put on board any ship belonging to an enemy before the war or after the declaration of the same without the knowledge of it, shall no ways be liable to confiscation, but shall well and truly be restored without delay to the proprietors demanding the same; but so as that if the said merchandises be contraband, it shall not be any ways lawful to carry them afterwards to any ports belonging to the enemy. The two contracting parties agree, that the term of two months being passed after the declaration of war, their respective citizens and subjects, from whatever part of the world they come, shall not plead the ignorance mentioned in this article.

ARTICLE X.

All ships and merchandises of what nature soever, which shall be rescued out of the hands of any pirates or robbers on the high seas, shall be brought into some port of either state, and shall be delivered to the custody of the officers of that port, in order to be restored entire to the true proprietor, as soon as due and sufficient proof shall be made concerning the property thereof.

ARTICLE XI.

It shall be lawful for the ships of war of either party and privateers freely to carry whithersoever they please the ships and goods taken from their enemies, without being obliged to pay any duty to the officers of the admiralty or any other judges; nor shall such prizes be arrested or seized when they come to and enter the ports of the other party; nor shall the searcher or other officers of those places search the same, or make examination concerning the lawfulness of such prizes; but they may hoist sail at any time and depart and carry their prizes to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to show.

ARTICLE XII.

For the better promoting of commerce on both sides, it is agreed, that if a war should break out between the said two nations, six months after the proclamation of war shall be allowed to the merchants in the cities and towns where they live, for selling and transporting their goods and merchandises; and if any thing be taken from them, or any injury be done to them within that term, by either party, or the people or subjects of either, full satisfaction shall be made for the same.

ARTICLE XIII.

No subject of ~~their High Mightinesses the States of the seven United Provinces of the Low Countries~~ the said king shall apply for or take any commission or letter of marque for arming any ship or ships to act as privateers against the said United States of America, or any of them, or against the subjects, people or inhabitants of the said United States, or any of them, or against the property of

the inhabitants of any of them, from any prince or state with which the United States of America shall happen to be at war; nor shall any citizen ~~subject~~ or inhabitant of the said United States of America, or any of them, apply for or take any commission or letters of marque for arming any ship or vessel to act as privateers against the subjects of ~~their said High Mightinesses~~ the said king, or any of them, or against the property of any of them, from any prince or state with which the said ~~state~~ king shall be at war; and if any person of either nation shall take such commission or letters of marque, he shall be punished as a pirate.

ARTICLE XIV.

The ships of the subjects and inhabitants of either of the parties coming upon any coast belonging to either of the said ~~allies~~ contracting parties, but not willing to enter into port, or being entered into port and not willing to unload their cargoes, or break bulk, ~~they shall be treated agreeable to the general rules prescribed or to be prescribed relative to the object in question~~ shall have liberty to depart, or pursue their voyage without molestation.

ARTICLE XV.

It is hereby stipulated, that free ships shall also give a freedom to goods, and that every thing shall be deemed free and exempt which shall be found on board the ships belonging to the subjects of either of the ~~confederates~~ contracting parties, although the whole lading or any part thereof should appertain to the enemies of either, contraband goods being always excepted. It is also agreed in like manner that the same liberty be extended to persons who are on board a free ship with this effect, that although they be enemies to both or

either party, they are not to be taken out of that free ship, unless they are soldiers and in actual service of the enemies.

ARTICLE XVI.

This liberty of navigation and commerce shall extend to all kinds of merchandises except those only which are distinguished by the name of contraband; and under this name of contraband or prohibited goods shall be comprehended arms, great guns, bombs with their fuses and other things belonging to them, cannon ball, gunpowder, match, pikes, sword, lances, spears, halberds, mortars, petards, grenadoes, saltpetre, muskets, musket ball, bucklers, helmets, breastplates, coats of mail and the like kinds of arms proper for arming soldiers, musket rests, belts, horses with their furniture, and all other warlike instruments whatever. These merchandises which follow shall not be reckoned among contraband or prohibited goods; that is to say, all sorts of cloaths and all other manufactures woven of any wool, flax, silk, cotton or any other materials whatever, all kinds of wearing apparel, together with the species whereof they are used to be made, gold and silver, as well coined as uncoined, tin, iron, latten, copper, brass, coals, as also wheat and barley, and any other kind of corn or pulse, rice, ~~indigo, flax, hemp, tobacco,~~ and likewise all manner of spices, salted and smoked flesh, salted fish, cheese and butter, beer, oils, wines, sugars, and all sorts of salts, and in general all provisions which serve for the nourishment of mankind and the sustenance of life;—furthermore, all kinds of tobacco, indigo, cotton, hemp, flax, tar, pitch, ropes, cables, sails, sail cloth, anchors and any part of anchors, also ship's masts, planks, boards and beams of what trees soever, and all other things proper either for building or repairing ships,

and all other goods whatever which have not been worked into the form of any instrument or thing prepared for war, by land or sea, shall not be reputed contraband; much less such as have been already wrought up for any other use;—all which shall be wholly reckoned among free goods; as likewise all other merchandises and things which are not comprehended and particularly mentioned in the foregoing enumeration of contraband goods, so that they may be transported and carried in the freest manner by the subjects of both ~~confederates~~ powers, even to places belonging to an enemy, such towns or places being only excepted as are at that time besieged, blocked up, or invested.

ARTICLE XVII.

It is also agreed, that all goods, when once put on board the ships or vessels of either of the two contracting parties, shall be subject to no further visitation, but all visitation or search shall be made before hand, and all prohibited goods shall be stopped on the spot before the same be put on board, unless there are manifest tokens or proofs of fraudulent practice; nor shall either the persons or goods of the citizens of the United States, or of the subjects of the king of Sweden, be put under any arrest, or molested by any other kind of embargo, for that cause; and only the citizen or subject of that state to whom the said goods have been or shall be prohibited, and who shall presume to sell or alienate such sort of goods, shall be duly punished for the offence.

ARTICLE XVIII.

The two contracting parties grant to each other the liberty of having, each in the ports of the other, consuls, vice consuls and commissaries of their own appointing,

whose functions shall be regulated by particular agreement whenever either party chuses to make such appointment.¹

COMMISSION TO THE HONOURABLE B. FRANKLIN, ESQUIRE,
FOR NEGOTIATING A TREATY OF AMITY AND COMMERCE
WITH THE KING OF SWEDEN.

The United States in Congress assembled—To all who shall see these presents, send greeting.

It having been represented to Congress by their minister plenipotentiary at the Court of Versailles, that the king of Sweden has signified by his ambassador at that Court to our said minister his desire to enter into a treaty with the United States in Congress assembled; and we being willing to promote the same for establishing harmony and good intercourse between the citizens of the United States and the subjects of the said king:—KNOW YE, THEREFORE, That we, confiding in the integrity, prudence and ability of the honourable Benjamin Franklin, esquire, have nominated, constituted and appointed, and by these presents do nominate, constitute and appoint the said Benjamin Franklin, our minister plenipotentiary, giving him full powers, general and special, to act in that quality, to confer, treat, agree and conclude with the person or persons vested with equal powers by the said king, of and concerning a treaty of amity and commerce between the United States in Congress assembled, and the king of Sweden; and whatever shall be so agreed and concluded for us and in our name to sign and thereupon to make such treaty, conventions and agreements as he shall judge conformable to the ends we have in view, hereby promising in good faith that we

¹ This report, in the writing of a clerk, except as indicated, is in the *Papers of the Continental Congress*, No. 47, folio 289.

will accept, ratify and execute whatever shall be agreed, concluded and signed by our said minister. And whereas it may so happen that our aforesaid minister may die, or be otherwise incapacitated to execute this commission: We do, in that case, by these presents constitute and appoint the honourable John Adams our minister plenipotentiary for the purpose aforesaid; and in case of his death or incapacity, we appoint the honourable John Jay our minister plenipotentiary for the purpose aforesaid; and in case of his death or incapacity also, we do appoint the honourable Henry Laurens our minister plenipotentiary for the purpose aforesaid, with all the powers herein before delegated to the honourable Benjamin Franklin.

~~In witness whereof we have caused these presents to be sealed with our seal.~~

~~Done at Philadelphia this _____ day of _____ in the year of our Lord 178 _____ and in the _____ year of our Independence, by the United States in Congress assembled.~~

In testimony whereof, we have caused the seal of the United States of America to be affixed to these presents. Witness His Excellency John Hanson, Esq. President of the United States in Congress assembled, the twenty-eighth day of September, in the year of our Lord, one thousand seven hundred and eighty-two, and of our sovereignty and Independence the seventh.¹

INSTRUCTIONS TO THE HONOURABLE B. FRANKLIN,
ESQUIRE.

SIR,

You are to negotiate and conclude the proposed treaty of amity and commerce with the person or per-

¹ This report, in the writing of a clerk, of Charles Thomson and of George Bond, is in the *Papers of the Continental Congress*, No. 47, folios 299 and 301. A copy of it is in No. 49, folio 93.

sons that shall be appointed by his Swedish Majesty at Paris, and not elsewhere, unless some other place should be fixed upon for negotiating a general peace; in which case you may negotiate and conclude it at the same place.

~~The privilege of holding, inheriting and disposing of real property by the Citizens and Subjects of the contracting parties within their respective Territories reciprocally cannot be admitted but under the restriction of actual residence within the Nation where such real property may be at the time of holding, inheriting or disposing of the same.~~

As we shall be better able to judge by experience what commercial regulations will be most beneficial for the citizens and subjects of the contracting powers, it is our desire that the treaty be made for twelve years only.

It is possible that the fourth article in the plan of a treaty may be objected to on the part of the king of Sweden, as unequal, he having more ships of war than the United States, and not being engaged in any war which may render protection necessary to the ships of his subjects. He may also apprehend, that the giving protection to our vessels may involve him in a war with Great Britain. To this it may be answered, that the fifteenth article is as unequally in favor of Sweden, giving her the benefit of the carrying trade, which cannot be enjoyed by the citizens of the United States—Therefore the one article may be set against the other.

~~Nor do we apprehend that according to the laws of nations the protection to be given to the vessels of the United States conformably to the fourth article can be a just cause of war on the part of Great Britain.~~

But as the direct and essential object of the treaty is to obtain the recognition of our Independency by another European power, you are instructed not to adhere to

the 4th article so as to prevent the conclusion of the treaty. Upon the same principle you may also use your discretion in extending the term of the treaty to twenty years but no farther.

You are also at liberty, in case it be found necessary, to recede from the stipulation proposed in the 9th article, that whatever shall be found laden by the Subjects and Inhabitants of either party on any Ship belonging to the Enemies of the other shall be subject to confiscation.¹

Done in Congress at Philadelphia the twenty-eighth day of September, in the year of our Lord one thousand seven hundred and eighty-two and of our Sovereignty and Independence the Seventh.

The Superintendent of Finance to whom was referred the representation of the Legislature of the State of New Jersey of the twenty fourth Instant begs leave to Report,

That the Requisition of eight Millions for the Service of the current Year, including the Sums necessary for paying the Army, if that Requisition is complied with by the States the *whole* Army will be regularly and compleatly paid, and *partial Payments* (always pernicious) will be avoided.

That the Situation of the Accounts between the several States and the United States, the common Assertion of each State that it has made Efforts beyond all Others (an Assertion which must be false as to Some) the baleful Effects of this Declaration in diminishing the Efforts of all, and the confusion which must ensue and be prolonged from the Existence of such Causes, demonstrate the Necessity of paying all Expences from one common Treasury and replenishing that Treasury by the common Contribution of all according to established Principles; So that in future all Accounts should be reduced to Demands for Money on one Side and Payments of it on the Other.

That the Plans of an Administration on these just and simple Principles have been adopted by Congress, and by their constant

¹ This report is in the *Papers of the Continental Congress*, No. 47, folios 303-303¹. The last paragraph is in James Madison's writing, the others, except the first two, which are in the writing of a clerk, are in the writing of Arthur Lee. A copy is in No. 49, folio 97.

Care and Attention are now carrying into Execution in such Manner as to promise beneficial Consequences.

That if these Plans are broken in upon and every State again permitted to expend the Money of the Union according to their Pleasure, it will be impossible to conduct the Affairs of America either with Regularity or Economy.

That it is therefore a Duty which Congress owe alike to the Interests of their Constituents and to their own Dignity (which cannot be wounded without wounding at the same Moment the Majesty of the People they represent) to take the most decisive Measures for preventing the further Progress of this Evil.

The following resolution therefore is submitted:

Whereas, the United States in Congress assembled have required the Sum of eight Million Dollars for the Service of the Year 1782, in which Service is included the Pay of the Army: And whereas the punctual Payment of the Quotas assigned to the several States would have prevented any just Complaints for the want of Pay and every Obstruction to the Service in the several public Departments, so that the Evils which have arisen or which may arise are entirely to be attributed to the very great Deficiency of the States in complying with the said Requisition: And whereas Congress have been informed that several of the said States, while they neglect the proper Supply of the public Treasury have made Payments to the Troops levied in such State, whereby it happens that Murmur and Complaint must arise in the Army very detrimental to the Service, because that equal Justice is not done to all, which it is the earnest Desire of Congress to render: And whereas such Payments must derange and finally overturn the Systems which have been adopted for administering the public Revenue and performing the Business of the several Departments, and must involve the said Business in Confusion and finally produce Contests Divisions and dangerous Animositities: for Prevention thereof,

Resolved, That any Monies paid by any of the States to the Officers and Soldiers of the American Army as pay for the year 1782 be considered as a free Gift. That the same be not charged to such Officers and Soldiers in their Account of Pay, and that it be not credited to the State by whom it shall have been or shall be advanced.

Resolved, That the States be required to make speedy Payment of their several Quotas into the public Treasury, that Congress may be thereby enabled to pay the Officers and Soldiers of the American

Army the whole Amount of their Pay for the present Year before the expiration thereof.

Office of Finance 27th Sept. 1782.¹

MONDAY, SEPTEMBER 30, 1782

On a report from the Secretary at War, to whom was referred a letter of 24 from Captain de la Plaigne:

WAR OFFICE, *Sept. 28th, 1782.*

SIR,

I have made particular inquiry into the state of Captain La Plaigneurs, and I think there cannot be a doubt but he was a Captain in the first Georgia Regiment in the year 1777, that he has been absent about five years, been a prisoner, and has suffered as he represents, and that his distresses require immediate attention. From this view of the matter I should not hesitate to report in favor of a grant as pay, was there no danger from a precedent of this kind. He was sent abroad by the State of Georgia, and on their business without the knowledge of Congress, nor does he pretend that he so much as obtained leave of absence from the Commanding officer of the Southern Department. I am therefore of opinion, that at the time when he so accepted the employment of a particular State, that his pay as an officer of the United States should cease; but that in consideration of his particular suffering, his present most pressing wants, his being a stranger in this part of the country and destitute of friends to give him relief, and the great distance from Georgia, the place of his former residence, he should receive some supplies.

Recommitted.

If Congress should be of opinion from the present view of the subject, that his pay should cease for the reasons offered, while he was abroad, and that his present circumstances call for their aid, they will please to resolve,

Passed.

That the Secretary at War be directed to supply Capt. La Plaigneur, with the value of the sum of twenty pounds, in cloathing and the sum of thirty pounds in cash, for which the State of Georgia is to be accountable.

¹ This report is in the *Papers of the Continental Congress*, No. 137, I, folio 773. According to Committee Books 186 and 191, it was delivered September 27, and on September 28 committed to Mr. [Samuel John] Atlee, Mr. [James] Madison, and Mr. [Elias] Boudinot.

If Congress should be of different sentiments and determine that the United States are justly chargeable with his pay, during his five years absence, and that he is now an officer in the Army of the United States they need take no resolution on the matter. I can in that case with propriety order him his pay, as has been ordered to other officers of the line of the Army.¹

Resolved, That the Secretary at War supply Captain de la Plaigne with the value of fifty-three dollars and one-third of a dollar in cloathing; and with the sum of eighty dollars in cash, for which the State of Georgia is to be accountable.

WAR OFFICE, 28th September, 1782.

SIR,

On the 29 Ultimo I had the honor to lay before Congress the result of an inquiry made by his Excellency the Governor of Connecticut, and the Council of Safety on the complaint of Lieut. Col. Gray, that Lieut. Col. Huntington's Commission had an earlier date, than it ought to have had by which means Lieut. Col. Gray was injured in his Rank. The Governor and Council are decidedly in opinion that Lieut. Col. Huntington's Commission which bears date October 10, 1778, ought not to have been issued until May 1779, for that he took the vacancy caused by the resignation of Lieut. Col. Livingston which they say did not happen until May 1779 though his request to resign was on the 10th October 1778 yet that he drew pay in his regiment until May following and that the General in answer to his request by his letter dated November 24, 1778, informed him that his resignation should be accepted, as soon as his accounts should be settled. His Excellency General Washington, in answer to these observations, says that the request of Lieut. Col. Livingston for leave to resign was made to him on the 10th of October 1778 and that he declined accepting his resignation, until he should have procured vouchers that he had settled his accounts; but on finding Colonel Livingston took no steps to make the necessary settlement he was determined to take his resignation and date it from the 10th of October 1778 the time the request was made; because he had never from that period returned to his duty, nor could any precise time but that be fixed for so doing. The General farther observes that as soon as Lieut. Col. Huntington then Major Huntington was regularly informed that Lieut. Col. Livingston's resignation had been accepted

¹ This report is in the *Papers of the Continental Congress*, No. 149, I, folio 701.

on the 10th of October 1778 he directed him to be struck off the rolls (the Colonel was then a Prisoner of war) and his pay to be stopped from that time, and returned to the Paymaster General or auditors, which was done as appears by the certificate of Mr Beers.

The General also observes, that there were substantial reasons for affixing Livingston's resignation to the 10 October 1778, and if that period is now departed from it will affect the Commissions of a number of officers who date their rank from thence.

When I laid before Congress the proceedings of the Governor and Council of Connecticut, I observed should Congress be of opinion that Lieut. Col. Huntington's commission bears an earlier date than it ought to bear, and that justice to other officers requires it to be rectified, they will please to resolve,

As Lieut. Col. Huntington's Commission through mistake bears date the 10th of Oct. 1778, which ought to have been dated the first of May 1779, that it be called in and cancelled and that a Commission of Lieutenant Colonel issue to him bearing date the first day of May 1779.

Congress returned the papers with the following note: "referred back to the Secretary at War to take order".

That all the light which could be had in the case might be obtained, I sent a copy of the papers to his Excellency General Washington, who made the observations above recited, and sent them with a copy of a letter from Lieut. Col. Huntington to him on the subject.

As this is now a matter in which is involved a question of a very considerable consequence between the United States and an individual State, viz. how far they have the controul of the rank of their own officers I cannot think myself competent to a decision, or that Congress could wish me to undertake it. Connecticut are clearly in opinion that Lieut. Col. Huntington's Commission ought not to bear date until May 1779, and the General as clear that it should be dated October 10 1778.

I beg leave therefore to lay before Congress all the papers relative to this question of rank, and ask their particular directions on the subject.¹

Ordered, That a representation of Charles Young and Bertles Shee respecting a prize taken by the Brig *Letitia* and afterwards taken out of the possession of the Captors by the harbour master of

¹ This report is in the *Papers of the Continental Congress*, No. 149, I, folio 705. The indorsement shows that it was read on this day, and referred to Mr. [Joseph] Montgomery, Mr. [Theodorick] Bland and Mr. [John] Rutledge.

Basseterre in Christopher be referred to the Agent of Marine to report.¹

TUESDAY, OCTOBER 1, 1782

Mr. Richard Howell, having declined to accept the office of judge-advocate:

Resolved, That to-morrow be assigned for electing a judge-advocate.²

A letter, of 30 of September, from Thomas Edison, was read; Whereupon,

Ordered, That the Superintendent of finance pay to the said Thomas Edison, in addition to what he has already received, the sum of two hundred dollars in full for his services and all demands against the United States.³

The committee, consisting of Mr. [Samuel John] Atlee, Mr. [James] Madison and Mr. [Elias] Boudinot, to whom was referred a representation of the legislature of New Jersey, report,

“That it appears from the said representation, that complaints have been made to the legislature of New Jersey, by the officers of the line of that State, of partial payments made by other states to the troops of their particular lines, and that it is proposed by the said legislature, unless measures be taken by Congress for securing equal justice to the troops of New Jersey, to apply to their use a part of the taxes

¹ This order was entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

On this day, according to the indorsement, was read a letter from General Washington, dated Head Quarters, September 26, communicating intelligence received from Canada. It was referred to Mr. [Elias] Boudinot, Mr. [James] Duane, Mr. [Hugh] Williamson. It is in the *Papers of the Continental Congress*, No. 152, X, folio 743.

Also, a letter of June 25 and 29 from the Marquis de Lafayette to the Secretary for Foreign Affairs which was referred to Mr. [James] Duane, Mr. [John] Rutledge, Mr. [Joseph] Montgomery, Mr. [James] Madison, Mr. [Daniel] Carroll. It is in No. 156, folio 282.

² Howell's letter, dated September 26, addressed to the Secretary at War, is in the *Papers of the Continental Congress*, No. 78, XII, folio 245.

³ Edison's letter is in the *Papers of the Continental Congress* No. 78, VIII, folio 393.

required by and allotted for the disposition of the United States in Congress assembled:

“That by the Articles of Confederation, all charges of war, and all other expences incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, are to be defrayed out of a common treasury, which shall be supplied by the several states, and the United States in Congress assembled are to ascertain the sums so to be supplied, and to appropriate and apply the same in defraying such expences:

“That in pursuance of this delegated power, Congress did, in the month of November last, require of the several states their respective proportions of the sum of eight millions of dollars, for the service of the current year, in which service was included the payment of the army, so that in case of compliance with the said requisition, the whole army will be regularly and duly paid:

“That if therefore individual states undertake, without the previous warrant of Congress, to dispense any part of moneys required for and appropriated to the payment of the army, or any other purposes of the union, the federal constitution must be so far infringed:

“That such infractions ought the more to be guarded against, as they tend to subvert the plans which Congress have adopted and are now carrying into effect for a uniform and economical administration of the public revenue, as they must prolong the existence of unsettled accounts between the United States and individual states from which great inconveniences have been experienced, and as they cannot fail to produce ultimately discords, among the several states, and intermediate confusions and murmurs in the army;”
Whereupon,

~~These considerations have such weight with the Committee that they judged it expedient for Congress to resolve~~

Resolved, That the legislature of New Jersey be informed, that Congress have adopted every means in their power for securing payment of the arrears due to the army, prior to the first day of January last, and for the regular payment of the army in future, which they hope the several states will exert themselves to enable Congress to accomplish, and that Congress have discountenanced all partial payments of the army by particular states.

Resolved, That no moneys paid by any of the states to the officers and soldiers of the army of the United States, as pay for the year 1782, be considered as advanced in behalf of the United States, and that the same be not credited to the State by which the advance shall have been made.

Resolved, That the several states be required to make speedy payment of the respective quotas into the public treasury, that Congress may be thereby enabled to pay the officers and soldiers of the American army the amount of their pay for the present year.¹

The committee [Mr. George Clymer, Mr. Jonathan Jackson, and Mr. Edward Telfair] to whom was recommitted the report on the letter of the superintendant of finance of the 23 July report,

That having conferred with the superintendant of finance agreeable to the directions of Congress, they are of opinion that a sum certain should be allowed on the late commissary General Trumbull's account in lieu of all commissions earned and of the ballances of said account. They therefore offer the following resolution:

That there be passed to the credit of the late commissary general Joseph Trumbull twenty nine thousand five hundred and five dollars and sixty ninetieths of a dollar, being the sum estimated to be due to him from the United States, and in lieu of the nominal ballance struck on the settlement of his account.²

¹ This report, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 20, I, folio 303.

² This report, in the writing of George Clymer, is in the *Papers of the Continental Congress*, No. 19, VI, folio 67. It is indorsed "2d report. Read 16 Sept., 1782. Entered. Postponed." On October 1 it was referred, as the indorsement states, to Messrs. [George] Clymer, [Jonathan] Jackson and [Hugh] Williamson "to report what on due inquiry they apprehend to be a proper and adequate compensation for the services of Commissary Trumbull, the resolution of 31 March, 1779, notwithstanding, stating the facts upon which they ground their opinion." See *post*, October 28.

WEDNESDAY, OCTOBER 2, 1782

According to order, Congress proceeded to the election of a judge-advocate; and, the ballots being taken, Lieutenant Thomas Edwards was elected, having been previously nominated by Mr. [James] Duane.

The ordinance for regulating the Post Office of the United States of America, being read a second time, and debated by paragraphs,

Ordered, That Monday next be assigned for the third reading.

[Motion of Mr David Ramsay. Referred to the Secretary at War to report.]

Resolved, That Commodore Gillon be permitted to enlist a number of the German Prisoners not exceeding 400 50 to be employed on board the Frigate *South Carolina*.¹

THURSDAY, OCTOBER 3, 1782²

The committee, consisting of Mr. [James] Duane, Mr. [John] Rutledge, Mr. [Joseph] Montgomery, Mr. [James] Madison and Mr. [Daniel] Carroll, to whom were referred the notes of the communication made by the minister of France to a committee of Congress, on the 24th of September, brought in a report, which was agreed to as follows:

That the minister plenipotentiary of his Most Christian Majesty be informed, that the communication made by the said minister on the 24th of September last,

¹ This motion, in the writing of David Ramsay, is in the *Papers of the Continental Congress*, No. 36, I, folio 389. The indorsement shows that it was made this day.

On this day, according to the indorsement, was read a letter of Major General Greene, dated August 29, enclosing a report of Brigadier General M. Gist. It is in No. 155, II, folio 527.

Also, on this or an approximate date, one dated August 28 from Major General Greene. It is on folio 515.

² The proceedings for this day were entered only in the manuscript Secret Journal, Foreign Affairs, and in Secret Journal, No. 4. They are printed in the *Diplomatic Correspondence of the American Revolution* (Wharton), V, 792-796.

is considered by Congress as an additional proof of his Majesty's magnanimity, and has confirmed those sentiments of affection and confidence which his wise, steady and liberal conduct in every stage of the war has so justly inspired.

That his Most Christian Majesty's declaration to the British minister at Paris, that he will neither treat nor terminate any negotiation unless the interests of his allies and friends shall be considered and determined, is entirely correspondent to the part which these United States are resolved to take in any negotiation for peace.

That Congress with the utmost satisfaction embrace this opportunity to renew their assurances, that in every event these United States will inviolably adhere to their alliance with his Most Christian Majesty, which they consider to be equally essential to their interest and their glory.

That they will hearken to no propositions for peace which shall not be discussed in confidence and in concert with his Most Christian Majesty, agreeably to the declaration made to his minister plenipotentiary on the 31 day of May last.

That upon this principle, Congress did not hesitate a moment to reject the proposition made by the British general and admiral, as commissioners of peace, for admitting Mr. Morgan their secretary to an interview at Philadelphia.

And, that they are resolved to prosecute the war with vigour until a general peace shall be obtained, in which their allies shall be comprehended.

That Congress place the utmost confidence in his Majesty's assurances, that he will readily employ his good offices in support of the United States in all points relative to their prosperity; and considering the

territorial claims of these states as heretofore made, their participation of the fisheries, and of the free navigation of the Mississippi, not only as their indubitable rights, but as essential to their prosperity, they trust that his Majesty's efforts will be successfully employed to obtain a sufficient provision and security for those rights. Nor can they refrain from making known to his majesty, that any claim of restitution or compensation for property confiscated in the several states will meet with insuperable obstacles, not only on account of the sovereignty of the individual states, by which such confiscations have been made, but of the wanton devastations which the citizens of these states have experienced from the enemy, and in many instances from the very persons in whose favour such claim may be urged. That Congress trust that the circumstances of the allies at the negotiation for peace will be so prosperous as to render these expectations consistent with the spirit of moderation recommended by his Majesty.

When the last paragraph was under consideration,

A motion was made by Mr. [John] Rutledge, seconded by Mr. [Arthur] Lee, to insert after "territorial claims," these words "as stated in the instructions to their minister on the 13 August, 1779;" and on the question to agree to that amendment, the yeas and nays being required by Mr. [Theodorick] Bland—

<i>New Hampshire,</i>			<i>New York,</i>		
Mr. Gilman,	no	}	Mr. Duane,	ay	} ay
<i>Massachusetts,</i>			L'Hommedieu,	ay	
Mr. Osgood,	no	} no	<i>New Jersey,</i>		
Jackson,	no		Mr. Boudinot,	no	} no
<i>Connecticut,</i>		Condict,	no		
Mr. Huntington,	ay	} ay	Witherspoon,	no	
Dyer,	ay				

<i>Pennsylvania,</i>			<i>North Carolina,</i>	
Mr. Montgomery,	no	}	Mr. Williamson,	ay
Smith,	no		Blount,	ay
Clymer,	no		<i>South Carolina,</i>	
Atlee,	no		Mr. Rutledge,	ay
<i>Maryland,</i>			Ramsay,	ay
Mr. Hanson,	no	}	Izard,	ay
Carroll,	no		Gervais,	ay
Wright,	no		Middleton,	ay
Hemsley,	no		<i>Georgia,</i>	
<i>Virginia,</i>			Mr. Jones,	ay
Mr. J. Jones,	ay	}	Few,	ay
Madison,	ay			
Bland,	ay			
Lee,	ay			

So the question was lost.

A motion was then made by Mr. [James] Duane, seconded by Mr. [John] Witherspoon, to transpose the clause, with an amendment, so as to read, "the territorial claims of these states, their participation of the fisheries, and of the free navigation of the Mississippi."

A motion was made by Mr. [Turbett] Wright, seconded by Mr. ~~Witherspoon~~ [Silas] Condict, to amend the amendment by inserting the word "united" before the word "states;" and on the question to agree to this amendment to the amendment, the yeas and nays being required by Mr. [Theodorick] Bland—

<i>New Hampshire,</i>			<i>New Jersey,</i>	
Mr. Gilman,	ay	*	Mr. Boudinot,	ay
<i>Massachusetts,</i>			Condict,	ay
Mr. Osgood,	ay	}	Witherspoon,	ay
Jackson,	ay		<i>Pennsylvania,</i>	
<i>Connecticut,</i>			Mr. Montgomery,	no
Mr. Huntington,	no	}	Smith,	ay
Dyer,	no		Clymer,	ay
<i>New York,</i>				Atlee,
Mr. Duane,	ay	}		
L'Hommedieu,	ay			

<i>Maryland,</i>				<i>South Carolina,</i>			
Mr. Hanson,	ay	}	ay	Mr. Rutledge,	no	}	no
Carroll,	ay			Ramsay,	no		
Wright,	ay			Izard,	no		
Hemsley,	ay			Gervais,	no		
<i>Virginia,</i>				Middieton,	no		
Mr. J. Jones,	no	}	no	<i>Georgia,</i>			
Madison,	no			Mr. N. W. Jones,	no	}	no
Bland,	no			Few,	no		
Lee,	no						
<i>North Carolina,</i>							
Mr. Williamson,	no	}	no				
Blount,	no						

So the question was lost.

A motion was then made by Mr. [John] Rutledge, seconded by Mr. [Arthur] Lee, to amend the amendment by inserting after the words "states," these words "in behalf of the United States;" and on the question to agree to this, the yeas and nays being required by Mr. [Theodorick] Bland—

<i>New Hampshire,</i>				<i>Pennsylvania,</i>					
Mr. Gilman,	no	}	*	Mr. Montgomery,	no	}	no		
<i>Massachusetts,</i>								Smith,	no
Mr. Osgood,	no			Clymer,	no				
Jackson,	no	Atlee,	no						
<i>Connecticut,</i>				<i>Maryland,</i>					
Mr. Huntington,	ay	}	ay	Mr. Hanson,	no	}	no		
Dyer,	ay			Carroll,	no				
<i>New York,</i>				Wright,	no				
Mr. Duane,	ay	}	div.	Hemsley,	no				
L'Hommedieu,	no			<i>Virginia,</i>					
<i>New Jersey,</i>				Mr. J. Jones,	ay	}	ay		
Mr. Boudinot,	no	Madison,	no						
Condict,	no	Bland,	ay						
Witherspoon,	no	Lee,	ay						

<i>North Carolina,</i>			<i>Georgia,</i>		
Mr. Williamson,	ay	} ay	Mr. N. W. Jones,	ay	} ay
Blount,	ay		Few,	ay	
<i>South Carolina,</i>					
Mr. Rutledge,	ay	} ay			
Ramsay,	ay				
Izard,	ay				
Gervais,	ay				
Middleton,	ay				

So the question was lost.

A motion was then made to amend the amendment, by inserting the words "as heretofore made," after the word "states," which was agreed to; and the amendment being then adopted, on the question to agree to the whole report as amended, it was resolved in the affirmative by the votes of ~~ten~~ nine states.

Ordered, That the committee who brought in the report communicate to the honourable the minister of France the above answer of Congress to his communications.

Ordered, That the Secretary for foreign affairs transmit by the first opportunity a copy of the same to the ministers of these states at foreign courts.

FRIDAY, OCTOBER 4, 1782

On the report of a committee, consisting of Mr. [James] Duane, Mr. [John] Rutledge, Mr. [Joseph] Montgomery, Mr. [James] Madison, and Mr. [Daniel] Carroll, to whom were referred despatches from the Hon. J. Jay, of the 25 June, and from the Marquis de la Fayette, of the 25 and 29 of the same month, Congress agreed to the following act:¹

Whereas by the Articles of Confederation and perpetual union, the sole and exclusive right of making peace is vested

¹Jay's letter is printed in the *Diplomatic Correspondence of the American Revolution* (Wharton) V, 516; and Lafayette's letter, of June 25, on page 517.

in the United States in Congress assembled; and by the treaty of alliance between his Most Christian Majesty and these United States, it is declared that neither of the contracting parties shall conclude peace or truce with Great Britain without the consent of the other; and the ministers plenipotentiary of these United States in Europe are vested with full power and authority in their behalf, and in concert with their allies, to negotiate and conclude a general peace. Nevertheless it appears that the British court still flatters itself with the vain hope of prevailing on the United States to agree to some terms of dependence upon Great Britain, or at least to a separate peace; and there is reason to believe that commissioners may be sent to America to offer propositions of that nature to the United States: or that secret emissaries may be employed to delude and deceive. In order to extinguish ill founded hopes, to frustrate insidious attempts, and to manifest to the whole world the purity of the intentions and the fixed and unalterable determination of the United States:

Resolved, unanimously, That Congress are sincerely desirous of an honorable and permanent peace; that as the ~~surest~~ only means of obtaining it, they will inviolably adhere to the treaty of alliance with his Most Christian Majesty, and conclude neither a separate peace or truce with Great Britain; that they will prosecute the war with vigor, until, by the blessing of God on the united arms, a ~~general~~ peace shall be happily ~~effected~~ accomplished, by which the full and absolute sovereignty and independence of these United States having been duly ~~recognized and acknowledged~~ assured, their rights and interests, as well as those of their allies shall be effectually provided for and secured.

~~Resolved~~ That Congress will not enter into the discussion of any overtures for pacification, but in confidence and in concert with his Most Christian Majesty:

~~Resolved~~ That to guard against the secret artifices and machinations of the enemy, it be, and hereby is, recommended to the respective states, to be vigilant and active in detecting and seizing all British emissaries and spies, that they may be brought to condign punishment: that it be enjoined on all officers of departments charged with persons coming from the enemy under the protection of flags of truce, to take special care that such persons do not abuse their privileges, but be restrained from all intercourse with the country and inhabitants, which is not necessary for transacting the public business on which they may be sent: and lastly, it is recommended ~~that none of the subjects of his Britannic Majesty on any pretense be permitted to become citizens of the United States during the war~~ [to the several states that no subjects of his Britannic Majesty, coming directly or indirectly from any part of the British dominions, be admitted into the rights privileges &c. of citizenship of any of the United States during the war].¹

Ordered, That the Honorable the minister plenipotentiary of France be furnished with a copy of the above act, and that copies be transmitted to the ministers of these states at foreign courts, and that in the mean time it be published.²

Ordered, That Mr. [Arthur] Lee have leave of absence.

Ordered, That a memorial of Jos: Frost and Mr. Denning's report thereon to be referred to the Commissioner appointed to settle the accounts between the United States and the State of Connecticut, be referred to the Superintendent of Finance.

Ordered, That a report of the Secretary at War on Mr. [David] Ramsay's motion be referred to the Superintendent of Finance and Secretary at War, to take order.³

¹ This report, in the writing of James Duane, except the paragraph in brackets, which is in James Madison's writing, is in the *Papers of the Continental Congress*, No. 19, II, folios 245 and 247½.

² To this point the proceedings for the day were also entered in the manuscript Secret Journal, Foreign Affairs.

³ These two orders were entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

The Committee of the Week [Mr. William Hemsley, Mr. Thomas Smith, Mr. Silas Condict] report, That the memorial of James Lees late a Captain in the Artillery praying for the payment of £420.3.10. due to him for expences and also praying for the payment of the depreciation of his pay be referred to the Secretary at War.¹

The Committee of the Week [Mr. William Hemsley, Mr. Thomas Smith, Mr. Silas Condict] report, That the memorial of Mordecai Sheftal, late Deputy Commissary General of Issues in Georgia, setting forth that the loss of several of his official papers when he was made prisoner at Savannah makes it impossible for him to settle his accounts in the regular method and praying relief and also that a sum of money may be paid to him, be referred to the Superintendent of Finance.²

[MONDAY, OCTOBER 7, 1782]

The Agent of Marine to whom was referred the representation of Charles Young and Bertles Shee begs leave to Report,

That the matters and things in the said representation contained being related to and connected with the general law of nations, and the particular treaty with His Most Christian Majesty as well the enquiry into the state of facts, as the proper proceedings thereon when ascertained, appear to be peculiarly within the Department of Foreign Affairs.

He therefore submits to the following resolution,

That the representation of Charles Young and Bertles Shee be referred to the Secretary of Foreign Affairs.³

¹ This report, in the writing of Thomas Smith, is in the *Papers of the Continental Congress*, No. 32, folio 399. It is undated, but Committee Book No. 186 shows that the memorial was referred to the Secretary at War on this day.

² This report, in the writing of Thomas Smith, is in the *Papers of the Continental Congress*, No. 32, folio 401. The indorsement states that it was passed this day.

A letter of August 25 from the Governor of South Carolina was read this day, according to the indorsement. It is in No. 72, folio 561.

Also, a letter of August 12, from the Speaker of the Assembly of Georgia which was referred to Mr. [Joseph] Montgomery, Mr. [Samuel] Osgood, Mr. [Daniel] Carroll. It is in No. 73, folio 295.

³ This report is in the *Papers of the Continental Congress*, No. 137, I, folio 799. It was passed on this day the indorsement states. A copy of it is in No. 167, folio 149. The representation of Young and Shee is in No. 167, folio 161.

On October 7, according to the indorsement, was presented the memorial, undated, of Simon Metcalfe, of Missisqui, for himself and other Proprietors, praying that provision may be made at the negotiations of Peace that they may enjoy a free use

WEDNESDAY, OCTOBER 9, 1782

On the report of the Secretary at War, to whom was referred a memorial of Captain Phelps, of the invalid regiment:

WAR OFFICE, October 7th, 1782.

SIR,

I am of opinion that Captain Phelps of the Invalid Corps may without injury to the service be permitted to leave it, and that it is but a piece of justice due him to suffer him to retire agreeable to his request. If Congress should be of that sentiment they will please to resolve,

Resolved, That Captain Seth Phelps have leave to retire from the invalid corps, and that in consideration of his long services, and the wound he has received, he be entitled to all the emoluments allowed to retiring officers under the resolutions of Congress of the 3d and 21 October, 1780.¹

On the report of a committee, consisting of Mr. [Joseph] Montgomery, Mr. [Theodorick] Bland, and Mr. [John] Rutledge, to whom was referred a report of the Secretary at War, relative to the rank of Lieutenant Colonels Huntington and Gray, of the Connecticut line:

Ordered, That the papers be referred to the Commander in Chief, and that he summon a board of general officers and colonels, not being of the line of Connecticut, to adjust the rank of the claimants according to ~~such principles as have been heretofore adopted in similar cases~~ [principles of equity and the rules of promotion established in the army of the United States of America.]²

of the River St. Lawrence. It was referred to Mr. [James] Duane, Mr. [James] Madison, Mr. [Daniel] Carroll. The indorsement further says: "Report of the Committee that it be handed to the Secretary for foreign affairs." It is in No. 42, V, folio 277.

Also, a letter dated October 7 from the Secretary at War, enclosing a letter from General Washington to Sir Guy Carleton, on the subject of an advance for the support of the British prisoners, was read on this day. It is in No. 149, I, folio 719.

¹ This report is in the *Papers of the Continental Congress*, No. 149, I, folio 709.

² This report, in the writing of Theodorick Bland, except the portion in brackets, which is in Joseph Montgomery's writing, is in the *Papers of the Continental Congress*, No. 19, III, folio 221.

[Motion of Mr Hugh Williamson, referred to Mr Hugh Williamson, Mr Joseph Montgomery, Mr Theodorick Bland.]

That a Committee be appointed to consider whether the Officers and Troops belonging to the Line of some States in the Union may not be so affected by the Resolves of Aug^t 7th respecting the Army as to injure the public service.¹

THURSDAY, OCTOBER 10, 1782

Mr. Jonathan Arnold, a delegate for the State of Rhode Island and Providence Plantations, attended, produced the credentials of his appointment, and took his seat.

State of Rhode Island and Providence Plantations

This certifies that at the Anniversary Election of Officers, Civil and Military, for the State afores^d held at Newport on the First Wednesday in May, A. D. 1782 the Honorable Jonathan Arnold Esq. was chosen a Delegate to represent the said State in the Congress of the United States of America, for One Year and until another should appear to take his Seat.

Witness HENRY WARD *Secry.*²

The grand committee, consisting of a member from each State, to whom was referred a motion that a requisition be made to each State to provide ways and means for the payment of interest due on the liquidated debts, report,

¹ This motion in the writing of Hugh Williamson, is in the *Papers of the Continental Congress*, No. 36, I, folio 407. The indorsement shows that it was offered on this day, and referred to Mr. [Hugh] Williamson, Mr. [Joseph] Montgomery and Mr. [Theodorick] Bland, and that the report was read October 28, and referred to the Secretary at War to report.

On this day, according to the indorsement, was read a memorial of the late Issuing Commissaries, dated Verplank's Point, September 27, 1782. It was, on October 15: "Referred to the Superintendent of finance so far as relates to settlement of accounts and pay." It is in No. 42, IV, folio 62. See *post*, October 24.

Also, a letter of September 10 from the Governor of North Carolina. It is in No. 72, folio 159.

Also, a letter of October 7, from the Superintendent of Finance, as Agent of Marine, enclosing an extract of a letter from Capt. Jones respecting the *America*. It is in No. 137, I, folio 783.

Also, another letter from him of the same date, enclosing an extract of a letter from Wm. C. Houston, Receiver of Taxes for New Jersey. It is on folio 791.

² The original is in the *Papers of the Continental Congress*, Rhode Island, *Credentials of Delegates*. It was entered in No. 179, *Record of Credentials*, and not in the *Journal*.

That they have considered the motion referred to them, and are of opinion that it is not at present expedient for Congress to make such a requisition as is proposed by the said motion :

They have also reconsidered that part of their report which was
 Postponed. recommitted to them and are of opinion that 391,362
 dollars for one year's half pay of reduced officers be inserted in the estimate for the next year.

On the question to agree to this part of the report, resolved in the affirmative.

The committee having farther reported a resolution, which being amended to read,

That Congress call upon the states of Rhode Island and Georgia for an immediate definitive answer whether they will comply with the recommendation of Congress to vest them with power to levy a duty of five per cent. on all goods imported, and on prizes and prize goods.¹

¹ This report, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 26, folio 357. Another report also in Rutledge's writing is on folio 359 and is as follows:

The Grand Committee report that they have considered the motion referred to them on the and are of opinion that it is not expedient for Congress at present to make such requisitions on the several States as are mentioned in the said motion and they recommend that the State of Rhode Island be called on for an immediate categorical answer whether they will comply with the recommendation of Congress to vest 'em with a power of levying a duty of 5 p cent on all imported goods and on all prizes and prize goods.—The Com^e have also considered that part of their report which was recommitted to them and are of opinion that as one year's half pay for reduced officers be inserted in the estimate of the next year's expence.

The following amendment, in the writing of Arthur Lee except the parts in brackets which are in that of John Rutledge, is on folio 363 and is marked No:

That this Committee upon considering the ~~requisition~~ [motion] referred to them, are of opinion that it is not [at present] expedient for Congress to make a requisition ~~til the issue of the requisition for 1,000,000 dollars and that of the recommendation for a duty of 5 p cent on imports shall be known~~ [on the States to provide ways and means for the payment of the interest due on the unliquidated debt.]

The following amendment, in the writing of John Witherspoon, except the part in brackets, which is in the writing of John Rutledge, is on folio 364.

That Congress call upon the State of Rhode Island for an immediate and categorical answer whether they will ~~lay the impost~~ [comply with the recommendation of laying a] duty of five per cent on imported articles agreeably to the recommendation of

The following, in the writing of Joseph Montgomery, is on folio 365:

That a requisition be made to each State to provide ways and means for the payment of the interest due on public liquidated debts, as also the half pay due or that may be due to retiring officers.

A motion was made by Mr. [David] Howell, seconded by Mr. [Theodorick] Bland, to amend the proposition by adding, "and that it be recommended to those states who have passed acts adopting the said recommendation on certain conditions, to revise and amend said acts."

And on the question to agree to the amendment, the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>			<i>Maryland,</i>	
Mr. Gilman,	no } *		Mr. Hanson,	no } no
<i>Massachusetts,</i>			Carroll,	no } no
Mr. Osgood,	no } no		Wright,	no } no
Jackson,	no } no		Hemsley,	no } no
<i>Rhode Island,</i>			<i>Virginia,</i>	
Mr. Howell,	ay } ay		Mr. J. Jones,	no } no
Arnold,	ay } ay		Madison,	no } no
<i>Connecticut,</i>			Bland,	ay } no
Mr. Huntington,	no } no		<i>North Carolina,</i>	
Dyer,	no } no		Mr. Williamson,	no } no
<i>New York,</i>			Blount,	no } no
Mr. Duane,	no } no		<i>South Carolina,</i>	
L'Hommedieu,	no } no		Mr. Rutledge,	no } ay
<i>New Jersey,</i>			Ramsay,	no } ay
Mr. Condict,	no } no		Izard,	ay } ay
Witherspoon,	no } no		Gervais,	ay } ay
<i>Pennsylvania,</i>			Middleton,	ay } ay
Mr. Montgomery,	no } no		<i>Georgia,</i>	
Clymer,	no } no		Mr. N. W. Jones,	ay } *
Atlee,	no } no			

So the amendment was lost.

On the question to agree to the proposition of the grand committee, the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>		<i>Rhode Island,</i>	
Mr. Gilman,	ay } *	Mr. Howell,	no } no
<i>Massachusetts,</i>		Arnold,	no } no
Mr. Osgood,	ay } ay	<i>Connecticut,</i>	
Jackson,	ay } ay	Mr. Huntington,	ay } ay
		Dyer,	ay } ay

<i>New York,</i>			<i>Virginia,</i>		
Mr. Duane,	ay	} ay	Mr. J. Jones,	ay	} ay
L'Hommedieu,	ay		Madison,	ay	
<i>New Jersey,</i>			Bland,	ay	
Mr. Condict,	ay	} ay	<i>North Carolina,</i>		
Witherspoon,	ay		Mr. Williamson,	ay	} ay
<i>Pennsylvania,</i>			Blount,	ay	
Mr. Montgomery,	ay	} ay	<i>South Carolina,</i>		
Clymer,	ay		Mr. Rutledge,	ay	} ay
Atlee,	ay		Ramsay,	ay	
<i>Maryland,</i>			Izard,	ay	
Mr. Hanson	ay	} ay	Gervais,	ay	
Carroll	ay		Middleton,	no	
Wright	ay		<i>Georgia,</i>		
Hemsley,	ay		Mr. N. W. Jones,	no	*

So it was resolved in the affirmative.¹

FRIDAY, OCTOBER 11, 1782

Pursuant to the resolution of the 27 of February last, the Superintendent of finance reports, that he has appointed Mr. Edward Fox, a commissioner for settling the accounts of the hospital department, desiring to be favoured with the orders of Congress if they should disapprove the appointment.²

¹ On this day, according to the indorsement, was presented a memorial, from Charles Phelps, of Cumberland Co., in the New Hampshire Grants, relative to disturbances in Vermont. It was referred to Mr. [Joseph] Montgomery, Mr. [Theodorick] Bland, Mr. [Daniel] Carroll, Mr. [Eliphalet] Dyer, Mr. [John] Witherspoon. It is in the *Papers of the Continental Congress*, No. 40, II, folio 339. Committee Book No. 186 shows that the letter of September 16 from the Governor of New York to the delegates of that State, and a deposition of Joel Bigalow relative to the same subject, were also referred to this committee. See *ante*, September 23, *note*.

Also, a letter of October 9 from the Superintendent of Finance, relative to an offer of the Governor of Virginia to transfer to the Continent clothing purchased for that State and now in France. It is in No. 137, I, folio 803, and, according to the indorsement, was referred on this day to Mr. [David] Ramsay, Mr. [Samuel] Osgood and Mr. [John Taylor] Gilman.

Also, a letter from General Washington, dated Head Quarters September 30, enclosing copies of correspondence with Sir Guy Carleton. It is in No. 152, X, folio 753.

² This report is in the *Papers of the Continental Congress*, No. 137, I, folio 817.

On the report of a committee, consisting of Mr. [Elias] Boudinot, Mr. [James] Duane and Mr. [Hugh] Williamson, to whom were referred the letter of 26 September from the Commander in Chief, and the letter of ~~1-Oct.~~ 21 September from General Schuyler:

Resolved, That the commissioners of Indian affairs for the northern department, be instructed to avail themselves of the change of temper which is represented to prevail in the tribes of Indians under their superintendance,

~~And if these tribes shall appear to be impressed with a just sense of their treachery and misconduct and an earnest desire to return to their duty and allegiance the said commissioners are authorized to encourage them to hope for forgiveness and protection.~~

And to devise and report to Congress the best means of securing the said tribes against the future intrigues of the enemy.¹

On the report of a committee, consisting of Mr. [Joseph] Montgomery, Mr. [Samuel] Osgood and Mr. [Daniel] Carroll, to whom was referred a letter of 12 August last, from the speaker of the assembly of Georgia:

Ordered, That a copy of the resolutions of the 9 of September last, relative to the southern department, be transmitted to the governor of Georgia, and that he be informed Congress doubt not but protection and security will be given to the State of Georgia, by a proper execution of the said resolutions.²

On the report of a committee, consisting of Mr. [John] Witherspoon, Mr. [Joseph] Montgomery and Mr. [Hugh] Williamson, appointed to prepare a recommendation to the

¹ This report, in the writing of James Duane, is in the *Papers of the Continental Congress*, No. 19, VI, folio 411. Schuyler's letter is in No. 153, III, folio 593.

² This report, in the writing of Joseph Montgomery, is in the *Papers of the Continental Congress*, No. 20, II, folio 445.

states, setting apart a day of thanksgiving and prayer, Congress agreed to the following act:

It being the indispensable duty of all nations, not only to offer up their supplications to Almighty God, the giver of all good, for his gracious assistance in ~~the~~ a time of public distress, but also in a solemn and public manner to give him praise for his goodness in general, and especially for great and signal interpositions of his Providence in their behalf; therefore, the United States in Congress assembled, taking into their consideration the many instances of divine goodness to these states, in the course of the important conflict in which they have been so long engaged; ~~and~~ the present happy and promising state of public affairs; and the events of the war in the course of the ~~last~~ year now drawing to a close, particularly the harmony of the public councils, which is so necessary to the success of the public cause; the perfect union and good understanding which has hitherto subsisted between them and their allies, notwithstanding the artful and unwearied attempts of the common enemy to ~~sew dis-~~
~~sension—between—them~~ divide them; the success of the arms of the United States and those of their allies, and the acknowledgment of their independence by another European power, whose friendship and commerce must be of great and lasting advantage to these states; ~~and the success of their arms and those of their allies in different parts~~ do hereby recommend it to the inhabitants of these states in general, to observe, and ~~recommend it to the executives of~~ request the several states to interpose their authority in appointing and ~~requiring~~ commanding the observation of ~~the last~~ Thursday, in the 28 day of November next, as a day of solemn thanksgiving to God for all his mercies: and they do further recommend to all ranks, to testify their gratitude to God for his goodness, by a cheerful obedience to his laws, and by promoting, each in his station, and by his influence, the practice of true and undefiled religion, which is the great foundation of public prosperity and national happiness. Given, &c.¹

¹ This report, in the writing of John Witherspoon, is in the *Papers of the Continental Congress*, No. 24, folio 471.

MONDAY, OCTOBER 14, 1782

Pursuant to the resolution of the 27 February last, the Superintendent of finance reported Mr. Joseph Bindon as the commissioner for settling the accounts of the cloathing department, desiring the orders of Congress if they disapprove the appointment.¹

A motion was made by Mr. [Arthur] Middleton, seconded by Mr. [John] Rutledge,

“That Brigadier General Moultrie be promoted to the rank of a major-general, to take rank in the army as such from the 15th of September, 1780.”²

A motion was made by Mr. [James] Duane, seconded by Mr. [Ezra] L’Hommedieu, to amend the motion by inserting “James Clinton and,” before “Moultrie.”³

An objection being made to this as being out of order,

On the question, is the motion for amending in order? the yeas and nays being required by Mr. [James] Duane,

<i>New Hampshire,</i>			<i>New Jersey,</i>	
Mr. Gilman,	no } *		Mr. Boudinot,	ay } ay
<i>Massachusetts,</i>			Condict,	ay } ay
Mr. Osgood,	ay } div.		Witherspoon,	ay } ay
Jackson,	no } div.		<i>Pennsylvania,</i>	
<i>Rhode Island,</i>			Mr. Smith,	no } div.
Mr. Howell,	no } div.		Clymer,	ay } div.
Arnold,	ay } div.		<i>Delaware,</i>	
<i>Connecticut,</i>			Mr. Wharton,	ay } *
Mr. Huntington,	no } no		<i>Maryland,</i>	
Dyer,	no } no		Mr. Hanson,	ay } ay
<i>New York,</i>			Carroll,	ay } ay
Mr. Duane,	ay } ay		Wright,	no } ay
L’Hommedieu,	ay } ay		Hemsley,	ay } ay

¹ This report is in the *Papers of the Continental Congress*, No. 137, I, folio 813.

² This motion, in the writing of Arthur Middleton, is in the *Papers of the Continental Congress*, No. 36, I, folio 397.

³ The motion in favor of Clinton in the writing of Ezra L’Hommedieu is in the *Papers of the Continental Congress*, No. 36, I, folio 399.

<i>Virginia,</i>			<i>South Carolina,</i>		
Mr. Jones,	ay	}	ay	no	}
Madison,	ay		no	no	
Bland,	no		ay	ay	
<i>North Carolina,</i>			Gervais,	ay	}
Mr. Blount,	ay	*	Middleton,	ay	
			<i>Georgia,</i>		
			Mr. Jones,	ay	* ¹

So the question was lost.

A motion was then made by Mr. [Theodorick] Bland, seconded by Mr. [Eliphalet] Dyer,

That the motion of Mr. [Arthur] Middleton be referred to the Secretary at War.

And on the question to agree to this, the yeas and nays being required by Mr. [Arthur] Middleton,

<i>New Hampshire,</i>			<i>Delaware,</i>			
Mr. Gilman,	no	*	Mr. Wharton,	ay	*	
<i>Massachusetts,</i>			<i>Maryland,</i>			
Mr. Osgood,	no	}	Mr. Hanson,	no	}	
Jackson,	no		no	Carroll,		no
<i>Rhode Island,</i>			Wright,	no		
Mr. Howell,	no	}	Hemsley,	no		
Arnold,	no			<i>Virginia,</i>		
<i>Connecticut,</i>			Mr. J. Jones,	no	}	
Mr. Huntington,	ay	}	Bland,	ay		
Dyer,	ay			<i>North Carolina,</i>		
<i>New York,</i>			Mr. Blount,	no	*	
Mr. Duane,	no	}	<i>South Carolina,</i>			
L'Hommedieu,	no			Mr. Rutledge,	no	
<i>New Jersey,</i>			Ramsay,	no	}	
Mr. Boudinot,	no	}	Izard,	no		
Condict,	no		no	Gervais,		no
Witherspoon,	ay			Middleton,		no
<i>Pennsylvania,</i>						
Mr. Smith,	ay	}				
Clymer,	no					

So the question was lost.

¹ The vote was entered in the Journal by George Bond.

After farther debate, an adjournment was called for and agreed to.

The Committee to whom were referred the letter from the Secty at War of Sept. 6th, 1782, together with all the papers relative to promotions &c—beg leave to report,

That it appears to them that the most general principle or rule of promotion of Colonels to Brigadiers and of Brigadiers to the Rank of Major Generals which Congress seems to have adopted is that of apportioning those officers to the number of troops which the States, to which they respectively belong, have in the field.

That the resolutions of Congress of the 7th day of August last has established this as a fixed principle, not to be deviated from but in cases where signal merit or services shall in the opinion of Congress render such deviation proper—That your Committee cannot but approve this principle as the most equitable general rule that the nature of the composition of the Army of the United States will admit of, as well as the most conducive to the good of the service, for altho' it bears hard on some meritorious individuals, whose State lines have been from various inevitable causes so reduced as to render the officers necessary to command very disproportionate to the non commissioned officers and privates at one time, yet a future day may produce an alteration in favor of such officers and against those lines which from the fortune of war now enjoy the advantage.

Your Committee therefore having conferred with the Secretary at War on the returns of the Army, and the proportion of General Officers wanting in the respective States to command their quota of troops, are of opinion from his information that there are at this time only two Brigadiers wanting in the line of the State of Massachusetts and one Brigadier in the line of the State of Connecticut, and therefore submit the following resolve.

Resolved, That Friday next be appointed for choosing two Brigadiers for the line of the State of Massachusetts and one Brigadier for the line of the State of Connecticut.

Resolved, That Congress do not deem it necessary or consistent with the rule established for the promotion of Colonels to the rank of Brigadiers, or of Brigadiers to the rank of Major Generals at this time to promote a Colonel or Brigadier in the line of New York, South Carolina, or Georgia; but that when the numbers of the troops of those States or any other in the same predicament shall render

it necessary to increase the number of General Officers, the several officers claiming such promotions will have their ranks in the Army preserved inviolate with respect to such as may have been promoted from Junior Commissions, on account of the necessity of apportioning the number of General Officers to the troops of their respective lines.¹

Resolved, That Brigadiers to be appointed be taken from the eldest Colonels and Majors General from the eldest Brigadiers in the Line of the Army, except where promotions are made for special merit, and in such case, those who are of older standing in the line of the Army, than the officers so promoted, shall be also promoted and take rank of them, provided that where they can have no command as Brigadiers they may either at their option hold the Command of their Regiments with the rank of Brigadiers or be considered as retiring officers and entitled to the pay and emoluments of retiring Colonels, liable however to be called into service, when the command of a Brigade shall offer, and that this rule extend to all promotions which have taken place since 19 Jany. last.²

¹ This report is in the *Papers of the Continental Congress*, No. 149, I, folio 633. Committee Book No. 191 shows that it was delivered September 12. Committee Book No. 186 shows that on September 6, the letter of same date from the Secretary at War was referred to Mr. [Theodorick] Bland Mr. [Ezekiel] Cornell and Mr. [Joseph] Montgomery, "with letters from Col. Shepard of the Massachusetts line and from brig. gen. James Clinton, relative to promotions, together with all the papers relative to promotions which were referred to the Committee of 5 of 25 June last which is discharged from so much of the business referred to them."

² This motion, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 149, I, folio 647. According to Committee Book No. 186, it was referred, on October 14, to the Secretary at War, together with the report of the committee on promotions, "also the resolution of 25 May, 1781, which was repealed 19 Jan^y, 1782. To consult the Com^{rs} in Chief and report the most eligible mode of promotion from the rank of colonels upwards."

The following draft of a report, in the writing of Theodorick Bland, and undated, is in No. 149, I, folio 645:

The Committee to whom was recommended the report on promotions, together with the motion of M^r Rutledge, Report,

That it appears to them that the most general principle ~~or rule of promotion~~ which Congress has adopted is that of apportioning the officers to the number of Troops which the States to which they respectively belong, have in the field.

That the resolution of Congress of the Seventh of August last has established this as a fixed principle for limiting promotions as far as Regimental rank reaches, not to be deviated from except in cases where signal merit or services shall in the opinion of Congress render such deviation proper. That your Committee cannot but approve this as the best general principle that the nature of the composition of the Army of the United States will admit of, for altho' it may for a time bear hard on some merito-

TUESDAY, OCTOBER 15, 1782

On motion of Mr. [John] Witherspoon, seconded by Mr. [Turbett] Wright,

Ordered, That the committee to whom were referred the letter of 19 August last from the Commander in Chief, and the proceedings of the British court-martial on the trial of Lippencut, for the murder of Captain ||Joshua|| Huddy,

rious individuals, whose State lines have been or may be from various inevitable causes so reduced as to render the officers necessary to command very disproportionate to the non commissioned officers and privates at one time. Yet a future day may produce an alteration in favor of such officers.

Your Committee therefore having conferred with the Secretary at War, on the proportion of General Officers wanting in the respective States to command their quota of troops, and having examined the returns in the war office find, that there are at this time only three general officers wanting in the Army of the United States in addition to those already appointed, viz. two Brigadiers in the Line of the State of Massachusetts, and one Brigadier in the Line of the State of Connecticut, whereupon your Committee submit the following resolution.

Resolved, That next be appointed for choosing two Brigadiers for the line of the State of Massachusetts and one Brigadier for the line of the State of Connecticut.

Resolved, That all Brigadier Generals and Colonels who may suppose their rank effected by the operation of the foregoing resolution shall be permitted to retire on the emoluments of Colonels retiring under the Resolutions of the 3rd and 21st of October 1780; provided nevertheless that they shall be liable to be called into service, when Congress or the Commander in Chief may think proper so that the obstacles to their promotion shall have been removed and their ranks can be established consistently with the principles laid down by Congress in their resolutions of the 7th August, 1782.

The following undated motion, in the writing of Richard Peters, is in No. 36, II, folio 87:

That the Commander in Chief and Commanding Officer of the Southern Army be directed to inform Congress of the Number of Brigadiers necessary to command Brigades for the ensuing Campaign, and also the Names and Dates of Commissions of the Senior Officers in the Lines wherein Brigadiers are wanting, to the End that Congress may make such appointments as to them shall seem expedient.

And the following, also undated, in the writing of Alexander Hamilton, is on folio 91:

That the Secretary at War report to Congress on Friday next the number of additional promotions of Brigadiers requisite to the service of the ensuing Campaign; and the names and dates of Commissions of such Colonels and Lt. Colonels Commandant as stand next in order of promotion; and that Congress then proceed to the election of the necessary Brigadiers.

report on Thursday next, and that the report be on that day taken into consideration.¹

Mr. [Arthur] Middleton renewed his motion made yesterday,

That Brigadier General Moultrie be promoted to the rank of major-general, to take rank in the army as such from the 15 of September, 1780.

A motion was made by Mr. [Theodorick] Bland, seconded by Mr. [Turbett] Wright, to strike out the words "to take rank in the army as such from the 15th of September, 1780."

And on the question, shall those words stand? the yeas and nays being required by Mr. [Turbett] Wright,

<i>New Hampshire,</i>			<i>New Jersey,</i>		
Mr. Gilman,	no	}	Mr. Boudinot,	no	} no
<i>Massachusetts,</i>			Condict,	no	
Mr. Osgood,	ay	} ay	Witherspoon,	no	
Jackson,	ay		<i>Pennsylvania,</i>		
<i>Rhode Island,</i>			Mr. Smith,	no	} no
Mr. Howell,	no	} no	Clymer,	no	
Arnold,	no		<i>Delaware,</i>		
<i>Connecticut,</i>			Mr. Wharton,	no	}
Mr. Huntington,	no	} no	<i>Maryland,</i>		
Dyer,	no		Mr. Hanson,	no	} no
<i>New York,</i>			Carroll,	no	
Mr. Duane,	ay	} ay	Wright,	no	
L'Hommedieu,	ay		Hemsley,	ay	

Footnote—Continued.

The following, also undated, is on folio 93. It is in the writing of Theodorick Bland:

Moved by Mr. [Theodorick] Bland, 2d Mr. [Joseph] Jones, to postpone motion now before the house to consider the following motion:

Resolved, That the Secretary of War report to Congress the most equitable and proper manner to reward the Merits of such Colonels in the Army of the United States by promotion to the Rank of Brigadiers as shall be most conducive to the good of the service of these States and not Injurious to the Rank of Individuals or the Rights of the States.

¹ According to the indorsement on the letter Mr. [John] Witherspoon and Mr. [Turbett] Wright were this day added to the committee. See *ante* August 26.

<i>Virginia,</i>			<i>South Carolina,</i>	
Mr. Madison,	no	} no	Mr. Rutledge,	ay
Bland,	no		Ramsay,	ay
<i>North Carolina,</i>			Izard,	ay
Mr. Williamson,	no	} div.	Gervais,	ay
Blount,	ay		Middleton,	ay

So it passed in the negative, and the words were struck out.

A motion was then made by Mr. [James] Duane, seconded by Mr. [John] Rutledge, that the motion be postponed, in order to make way for a previous motion, that Brigadier-General James Clinton be promoted to the rank of major General.

And on the question to postpone, the yeas and nays being required by Mr. [James] Duane,

<i>New Hampshire,</i>			<i>Delaware,</i>	
Mr. Gilman,	no	} *	Mr. Wharton,	no
<i>Massachusetts,</i>				<i>Maryland,</i>
Mr. Osgood,	no	} no	Mr. Hanson,	ay
Jackson,	no		Carroll,	ay
<i>Rhode Island,</i>			Wright,	ay
Mr. Howell,	no	} no	Hemsley,	ay
Arnold,	no		<i>Virginia,</i>	
<i>Connecticut,</i>			Mr. Madison,	no
Mr. Huntington,	no	} no	Bland,	no
Dyer,	no		<i>North Carolina,</i>	
<i>New York,</i>			Mr. Williamson,	no
Mr. Duane,	ay	} ay	Blount,	ay
L'Hommedieu,	ay		<i>South Carolina,</i>	
<i>New Jersey,</i>			Mr. Rutledge,	ay
Mr. Boudinot,	ay	} no	Ramsay,	ay
Condict,	no		Izard,	ay
Witherspoon,	no		Gervais,	ay
<i>Pennsylvania,</i>			Middleton,	ay
Mr. Smith,	no	} div.		
Clymer,	ay			

So the question was lost.

A motion was then made by Mr. [Eliphalet] Dyer, seconded by Mr. [David] Howell, that the consideration of the motion be postponed until Congress shall first determine whether considering the present state of the army, and the number of troops of which it consists, and the number of major-generals now in command, it is necessary at present to augment the number of major generals.¹

And on the question for postponing, the yeas and nays being required by Mr. [Silas] Conduct,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	ay	} *	Mr. Wharton,	ay	} *
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Osgood,	no	} no	Mr. Hanson,	no	} no
Jackson,	no		Carroll,	no	
<i>Rhode Island,</i>			Wright,	ay	
Mr. Howell,	ay	} ay	Hemsley,	no	
Arnold,	ay		<i>Virginia,</i>		
<i>Connecticut,</i>			Mr. Madison,	no	} no
Mr. Huntington,	ay	} ay	Bland,	no	
Dyer,	ay		<i>North Carolina,</i>		
<i>New York,</i>			Mr. Williamson,	no	} no
Mr. Duane,	no	} div.	Blount,	no	
L'Hommedieu,	ay		<i>South Carolina,</i>		
<i>New Jersey,</i>			Mr. Rutledge,	no	} no
Mr. Boudinot,	no	} no	Ramsay,	no	
Condict,	ay		Izard,	no	
Witherspoon,	no		Gervais,	no	
<i>Pennsylvania,</i>				Middleton,	no
Mr. Smith,	no	} no			
Clymer,	no				

So it passed in the negative.

¹ This motion, in the writing of Eliphalet Dyer, is in the *Papers of the Continental Congress*, No. 36, I, folio 395.

On the question to agree to the motion as amended, the yeas and nays being required by Mr. [Arthur] Middleton,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	no	} *	Mr. Wharton,	no	} *
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Osgood,	ay	} ay	Mr. Hanson,	ay	} ay
Jackson,	ay		Carroll,	ay	
<i>Rhode Island,</i>			Wright,	no	
Mr. Howell,	no	} no	Hemsley,	ay	
Arnold,	no		<i>Virginia,</i>		
<i>Connecticut,</i>			Mr. Madison,	ay	} ay
Mr. Huntington,	no	} no	Bland,	ay	
Dyer,	no		<i>North Carolina,</i>		
<i>New York,</i>			Mr. Williamson,	ay	} ay
Mr. Duane,	no	} no	Blount,	ay	
L'Hommiedieu,	no		<i>South Carolina,</i>		
<i>New Jersey,</i>			Mr. Rutledge,	ay	} ay
Mr. Boudinot,	ay	} ay	Ramsay,	ay	
Condict,	no		Izard,	ay	
Witherspoon,	ay		Gervais,	ay	
<i>Pennsylvania,</i>			Middleton,	ay	
Mr. Smith,	ay	} ay			
Clymer,	ay				

So it was

Resolved, That Brigadier-General Moultrie be promoted to the rank of a major general.

The Committee of the Week [Mr. William Blount, Mr. Samuel John Atlee, Mr. Benjamin Huntington,] report, That the memorial of David Hamilton, ship carpenter of Charlestown, South Carolina, setting forth, that in the year 1779, he did several pieces of work on board the Continental frigates in that harbour for which he obtained a certificate from Mr. Abraham Livingston then Continental Agent, be referred to the Agent of Marine.

And that the other part of his memorial relating to a quantity of lumber by him furnished a quarter-master for the use of the Army in the year 1780, be referred to the Superintendent of Finance.

That the memorial of Robert Patton, praying to be reimbursed a small expence necessarily incurred in procuring wood for Congress be referred to the Superintendent of Finance to take order.¹

The Committee of the Week, [Mr. David Ramsay, Mr. Ralph Izard, Mr. John Taylor Gilman] Report, That the petition of David Rees of the State of Georgia, deputy Judge Advocate, praying for an allowance of two or three months pay be referred to the Secretary at War to report thereon.²

[Motion of Mr James Duane, referred to Mr Elias Boudinot, Mr John Rutledge, Mr Joseph Montgomery.]

Resolved, That the Commander in Chief be informed that Congress see no reason to deviate from their act of respecting a general and national Cartel for exchange of Prisoners, and cannot therefore authorize any partial exchange.³

Ordered, That so much of the memorial of the late Issuing Commissaries so far as relates to the settlement of their accounts and payment of the balances due to them be referred to the Superintendent of Finance.⁴

¹ This report, in the writing of William Blount, is in the *Papers of the Continental Congress*, No. 32, folio 405. The indorsement states that it was passed this day. Committee Book No. 186 states that Hamilton's memorial was referred to the Agent of Marine and the Superintendent of Finance.

² This report, in the writing of David Ramsay, is in the *Papers of the Continental Congress*, No. 32, folio 403. The indorsement states that it was passed this day. Rees's petition, dated Philadelphia, September 19, is in No. 42, VI, folio 463.

³ This motion, in the writing of James Duane, is in the *Papers of the Continental Congress*, No. 36, I, folio 403. It was offered on this day as the indorsement shows.

⁴ This order was entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

On this day, according to Committee Book No. 186, a letter, dated October 14, from the Secretary at War, relative to the pay of the army and to the case of Captain Asgill, was referred to Mr. [Theodorick] Bland, Mr. [Daniel] Carroll, Mr. [Samuel] Osgood, "except what relates to Asgill." Leave of absence was granted to visit the Commander in Chief. This letter is in the *Papers of the Continental Congress*, No. 149, II, folio 53.

WEDNESDAY, OCTOBER 16, 1782

On the report of a committee, consisting of Mr. [Theodorick] Bland, Mr. [Daniel] Carroll, and Mr. [Samuel] Osgood, to whom was referred a letter of 14, from the Secretary at War:

Resolved, That commissions issue immediately to all officers of the army of the United States, who were actually appointed by their respective states and can produce certificates of such appointments prior to the passing of the resolution of the 11th of July last.¹

With respect to the pay of the army mentioned in the letter of the Secretary of War of the day of your Committee [Mr. Theodorick Bland, Mr. Daniel Carroll, Mr. Samuel Osgood] Report,

That Congress having on the day of 1781 made a requisition on the States for 8 millions of dollars in which was comprehended the estimate for the pay of the army, and having declared by their act of the 1st of Oct. 1782 that no monies paid by any of the States to the officers and soldiers of the army of the United States as pay for the year 1782 be considered as advanced in behalf of the United States and that the same be not credited to the State by which the advance shall have been made and ~~request~~ require by the same act that speedy payment be made of the respective quotas into the public treasury, that Congress might be thereby enabled to pay the officers and soldiers of the American army the amount of their pay for the present year—and having been informed by the Superintendant of Finance, that he has taken every step in his power, on the basis of those resolutions to obtain a speedy compliance therewith and likewise measures to draw supplies from such other sources as may be most immediately productive for relief to the army in point of pay.

Your Committee are of opinion that Congress can adopt no plan which can assure so much success as those above mentioned.²

Congress resumed the consideration of the report of the grand committee, consisting of a member from each State,

¹ This report, in the writing of Samuel Osgood, is in the *Papers of the Continental Congress*, No. 27, folio 195.

² This report, in the writing of Theodorick Bland, is in the *Papers of the Continental Congress*, No. 21, folio 301. The indorsement says it was negatived on this date.

which was agreed to as follows, ten states being represented and assenting to the same:

The Grand Committee report the following estimate of the sum necessary for the service of the year 1783, viz. for—

	2, 609, 320	
Pay of the Army	2, 217, 958	Dollars
Hospital Department	103, 177	
Quar ^r Master General	718, 500	
Clothier General	200, 000	
Commissary General for Mil ^y . Stores	49, 891	
Rations	1, 281, 174	
Civil and Military Staff	304, 448	
Marine	300, 000	
One year's half pay of retired officers	391, 362	
Civil List	181, 214	
Contingencies	643, 638	
	252, 277	

Total	6, 000, 000	
For the half pay establishment for one years provision for officers retired from service under resolution of Congress allowing them half pay	391, 362	} recommitted

And your Committee recommend that Congress make a requisition from the several States of 2,800,000 dollars in such Quotas as Congress may assign to them respectively as a part of the sum necessary for the service of the next year in expectation that the remainder may be procured on loan.¹

That the estimate for the service of the year 1783, be as follows:

For the pay of the army,	\$2, 609, 320	Civil and military staff,	\$304, 447
Hospital department,	103, 177	Marine,	300, 000
Quarter-master general, do.	718, 500	Civil list,	181, 214
Clothier-general, do.	200, 000	Contingencies,	252, 277
For military stores,	49, 891		
Rations,	1, 281, 174		<u>\$6, 000, 000</u>

Amounting in the whole to six millions of dollars.

¹ The report, in the writing of John Rutledge is in the *Papers of the Continental Congress*, No. 26, folio 367. A copy with the amendments made is on folio 369, and is the copy used here.

Resolved, That a requisition be made from the several states of two million dollars, in such quotas as Congress may assign to them respectively, as a part of the sum necessary for the service of the next year; and that any farther requisition be suspended until the result of the measures taken by Congress for obtaining loans shall be known.

On the report of a committee, consisting of Mr. [Elias] Boudinot, Mr. [John] Rutledge and Mr. [Joseph] Montgomery, to whom was referred a letter of 10, from the Secretary at War, together with a letter from the Commander in Chief and the report of the commissioners appointed by him to negotiate a general cartel:¹

That the Commissioners appointed by his Excellency General Washington for settling a General Cartel met the British Commissioners appointed by Sir Guy Carleton and Admiral Digby at Tappan on the 25 September last; but on an interchange of Powers, it appeared that the British Commissioners were not authorised to settle or agree to any cartel, which should bind the British Nation, and could proceed no farther than the personal authority of their constituents would warrant.

That the settlement of past accounts for subsistence of prisoners of war and provision for their future support were entirely kept out of sight by the Commissions with which they were invested, wherefore the American Commissioners refused to proceed to business, having decently remonstrated against the neglect on the part of the British, of making the necessary provision for the future subsistence of their soldiers prisoners of war with us, and stating that there were large sums of money due as a balance on these accounts, satisfaction for which the said Commissioners claimed and required in behalf of these States and declaring that on failure thereof, Congress would be compelled to take measures however disagreeable, for diminishing a burthen which has become intolerable.

Your Committee having fully considered the progress of this business recommend the following resolutions:

Resolved, That Congress do approve of the conduct of the commissioners appointed by the Commander in Chief to settle a general cartel, with the British commissioners ap-

¹ From this point the entries in the Journal are by George Bond.

pointed by Sir Guy Carleton and Rear Admiral Digby, met at Tappan, on the 25th of September last.

Resolved, That the Secretary at War do immediately take order for reducing in the most effectual manner, the present intolerable very heavy expence attending the subsistence of British prisoners of war in possession of these United States, so as the same be compatible with the health of such prisoners.

Resolved, That Congress will not go into any partial exchanges of prisoners of war in future, but will take the most effectual measures in their power, for the safe keeping of all prisoners of war, until a general cartel on liberal and national principles be agreed to and established.

And your Committee having considered the other papers referred to them recommend the following resolutions thereon:

Resolved, That the Commander in Chief be instructed to confirm the late exchanges of Lord Cornwallis's family (made by the Marquis La Fayette in France with the approbation of D^r Franklin) on receiving an adequate compensation therefor by the liberation of our officers of equal rank.

Postponed.

Resolved, That the Commander in Chief be instructed to accede to the propositions of General Sir Guy Carleton, "for the mutual liberation of all clergymen, physicians, surgeons and apothecaries, and to prevent their being hereafter considered as prisoners of war," in the first general cartel that shall be settled under his direction.¹

THURSDAY, OCTOBER 17, 1782

According to order, the committee, consisting of Mr. [John] Rutledge, Mr. [John] Witherspoon, Mr. [James] Duane and Mr. [Turbett] Wright, to whom were referred the letter of

¹ This report, in the writing of Elias Boudinot, is in the *Papers of the Continental Congress*, No. 28, folio 105. The letter of October 10, from the Secretary at War, is in No. 149, II, folio 1, and the report of the commissioners, Majors General Heath and Knox, is on folio 7.

The resolutions were entered in the Journal by George Bond.

19 August, from the Commander in Chief, and the proceedings of the British court-martial on the trial of Lippincut, for the murder of Captain Huddy, delivered in their report, which was read, and Thursday next assigned for the farther consideration of it.

The Committee, [consisting] of Mr. [John] Rutledge, Mr. [John] Witherspoon, Mr. [James] Duane, Mr. [Turbett] Wright ~~and Mr. McKean~~, to whom were referred the letter of 19 August from the Commander in Chief, and the proceedings on the trial of Lippincut for the murder of Captain Huddy, submit the following Resolution:

On Considering the correspondence between the Commander in Chief and Sir Guy Carleton, relative to the Murder of Captain Joshua Huddy, together with the Proceedings of a Court Martial on Captain Richard Lippincut for the said offence,

Resolved, That there does not appear from the said correspondence or proceedings to be any sufficient reason why the Commander in Chief should recede from the determination expressed in his ~~Letter of the~~ ———— to ~~Sir H. Clinton~~, several letters to Sir Henry Clinton and Sir Guy Carleton but that he be and is hereby, directed to suspend the Execution of the said Determination for days, in order to give the British General a further opportunity of saving the innocent by surrendering the guilty.¹

¹ This report, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 19, VI, folio 403.

The following, in the writing of Turbett Wright, and undated, is in No. 36, IV, folio 197:

Resolved, That notwithstanding Congress are clearly of opinion that the acquittal of Lippincut by the court martial is not by any means justifiable even upon the facts therein set forth proved and found by the court, yet as it appears the same court on that trial found that the killing of Huddy was in consequence of verbal orders given by Gov. Franklin and others called of the board of refugees who they declare acted without and had no authority therein which tho' it by no means excuses or justifies Lippincut in his act in executing Huddy yet it clearly shows that Gov. Franklin and others were guilty of the murder of Huddy, and though General Carlton supposes that Lippincut is excusable in a military view as he acted by order of those superior to him, which necessarily involves those who gave the orders in the guilt, therefore in order to prove the sincerity of the professions made by Generals Clinton, Robertson and Carlton that General Washington be requested to apply to General Carlton immediately to send to him ——— Alexander and ——— now within his command that justice may be done on the offenders; and that he send also to Great Britain, where it is said Governor Franklin is absconded, requesting ——— to apprehend said Franklin and send him in safe custody to America that he may be proceeded with in a course of justice for supposed murder of Captain Huddy, and that in the meantime ——— a British officer be held in safe custody in order to answer by way of retaliation for the murder of Captain Huddy if the aforesaid requisitions to General Carlton are not complied with.

On the motion of Mr. [James] Madison, seconded by Mr. [James] Duane,

Resolved, That the Secretary for Foreign Affairs inform the several ministers of the United States in Europe that it is the desire and express direction of Congress that they transmit full and frequent communications as well of their proceedings with the courts at which they respectively reside as of those which relate to negotiations for peace, and also of all such other transactions and events as may in any manner concern the United States.¹

The Committee to whom was referred the letter of Gov^r Clinton together with the Deposition of Joel Bigalow relative to certain acts of Hostility which had taken place in the County of Cumberland by an armed force under the orders of Ethan Allan beg leave to report:

That it appears to them from the said letter and deposition, that disturbances have arisen in a certain District called the New Hampshire Grants claiming to be an Independent Sovereign State ~~under the denomination~~ by the stile of the State of Vermont which State District together with the States of New Hampshire and New York, have voluntarily submitted their claims to the decision of Congress ~~as the supreme arbiter by formal acts of their respective legislatures,~~ and that the said dispute is now depending before Congress ~~on which no final decision has been reached,~~ undecided.

Your Committee therefore do not think themselves at liberty to advise any measure to be taken by Congress which might prejudice such ~~determination~~ decision as Congress may think proper to take on the matter thus submitted to them.

But your Committee esteem it highly necessary for the welfare of the Union, and for giving vigor to the operations of the United force of America against the common enemy that internal peace should be preserved as well between the respective members of the Union as within each District thereof and therefore submit the following Resolution:

Resolved, That Congress recommend to the Inhabitants of the
 District called the State of Vermont to desist from
 all measures which may tend to the disturbance of
 committed.

¹ This resolution, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 36, I, folio 405. It was also entered in the manuscript Secret Journal, Foreign Affairs.

the peace and tranquillity of the Union, which if not strictly adhered to must inevitably produce the most serious consequences as well to the Union in general as to the good people inhabiting the said State.

And in order that an effectual stop may be put to further animosities and disturbances among the States of New York, New Hampshire and Vermont and the people claiming to be Citizens of those States your Committee recommend the following resolve, viz.

~~Resolved, that Friday, sevensnight be appointed to take into consideration and finally to determine the dispute concerning the Jurisdiction of the said District called the New Hampshire Grants.~~

Resolved, That tomorrow week be appointed to take into consideration and finally to determine on the report of the Committee of the 17th April last relating to the dispute concerning the Jurisdiction of the said District called the New Hampshire Grants.¹

FRIDAY, OCTOBER 18, 1782

On the report of a committee of the week, consisting of Mr. [David] Ramsay, Mr. [Ralph] Izard and Mr. [John Taylor] Gilman, on a memorial of Captain Schreiber:

Resolved, That Captain Schreiber be informed in answer to his memorial, that Congress have taken every measure for procuring an exchange of prisoners, which is consistent with the honor of the United States; and that such part of his memorial as relates to his pay and subsistence, be referred to the Secretary at War.²

¹ This report, in the writing of Theodorick Bland, except the last paragraph, which is in the writing of John Hanson, is in the *Papers of the Continental Congress*, No. 40, II, folio 343. It is indorsed: "Vermont paper; Montgomery, Bland, Carroll, Dyer, Witherspoon. Report delivered 15 October, 1782, read 17. Wednesday, 30 October, assigned for consideration."³

On folio 319 is a copy of the first resolution, with a statement that it was referred to Mr. [John] Rutledge, Mr. [Samuel] Osgood and Mr. [David] Howell.

On this day, according to the indorsement, was read a report from a committee to the General Assembly of Maryland, and referred to the Secretary at War. It is in No. 70, folio 517.

² This resolution, in the writing of James Duane, is in the *Papers of the Continental Congress*, No. 41, IX, folio 196. Schreiber's memorial, dated Philadelphia, October 17, is on folio 193. The following resolution, undated, belongs to this period:

That the ~~Secretary at War~~ Commander in Chief be and hereby is empowered to exchange Capt. Schreiber and Capt. Segond, two foreign officers deranged from the service of the United States. That it be referred to the Secretary of War who is directed to consult the Commander in Chief and take order if deemed expedient.

This resolution is in No. 36, IV, folio 283.

On the report of a committee, consisting of Mr. [Elias] Boudinot, Mr. [David] Ramsay and Mr. [Daniel] Carroll, to whom was referred a letter of 16, from the Secretary at War:

Resolved, That the post at Wyoming be retained or withdrawn by the Commander in Chief, as he shall think it most for the benefit of the United States, any former resolution of Congress notwithstanding.¹

On the question to agree to this, the yeas and nays being required by Mr. [Thomas] Smith,

<i>New Hampshire</i> ,			<i>Maryland</i> ,		
Mr. Gilman,	ay } *		Mr. Hanson,	ay	} ay
<i>Massachusetts</i> ,			Carroll,	ay	
Mr. Osgood,	ay } ay		Hemsley,	ay	
Jackson,	ay } ay		<i>Virginia</i> ,		
<i>Rhode Island</i> ,			Mr. Madison,	ay } *	
Mr. Arnold,	ay } ay		<i>North Carolina</i> ,		
Howell,	ay } ay		Mr. Williamson,	ay	} ay
<i>Connecticut</i> ,			Blount,	ay	
Mr. Huntington,	ay } ay		<i>South Carolina</i> ,		
Dyer,	ay } ay		Mr. Rutledge,	ay	} ay
<i>New York</i> ,			Ramsay,	ay	
Mr. Duane,	ay } ay		Izard,	ay	
L'Hommedieu,	ay } ay		Gervais,	ay	
<i>New Jersey</i> ,			<i>Georgia</i> ,		
Mr. Boudinot,	ay } ay		Mr. Jones,	ay } *	
Condict,	ay } ay				
<i>Pennsylvania</i> ,					
Mr. Smith,	no } div.				
Clymer,	ay } div.				

So it was resolved in the affirmative.

On the report of a grand committee, consisting of a member from each State:

Resolved, That the following quotas of the two millions of dollars required from the states by the resolution of the 16th,

¹This report in the writing of Elias Boudinot is in the *Papers of the Continental Congress*, No. 26, folio 374. A copy is in No. 27, folio 197. The Secretary at War's letter is in No. 149, II, folio 57.

for the service of the year 1783, be assigned to the respective states, viz.

To New Hampshire	80,000	Delaware.....	28,000
Massachusetts	320,000	Maryland.....	220,000
Rhode Island and Providence Plantations.....	48,000	Virginia.....	290,000
Connecticut.....	222,000	North Carolina	148,000
New York.....	90,000	South Carolina	120,000
New Jersey.....	110,000	Georgia	24,000
Pennsylvania	300,000		<hr/>
			2,000,000 ¹

Resolved, That the several states be called upon to furnish the treasury of the United States with their respective quotas in four equal proportions or quarterly payments, the first payment to be made on the first day of April next:

That the said sums, when paid, shall be credited to the accounts of the several states on interest, to be hereafter adjusted agreeably to the resolution of the 6th of October, 1779.

A motion was then made by Mr. [David] Howell, seconded by Mr. [Jonathan] Arnold,

That it be recommended to the several states to lay taxes for raising their quotas of money for the United States, separate from those laid for their own particular use, to be subject only to the orders of Congress or the Superintendent of finance, and to take the most effectual measures to ensure the seasonable collection of the same:²

A motion was made by Mr. [Elias] Boudinot, seconded by Mr. [Daniel] Carroll, to postpone the consideration of that motion, in order to introduce the following:

That it be impressed on the several states as absolutely necessary to lay taxes for raising their quotas of money for

¹ This report, the first paragraph in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 26, folio 379.

² This motion, in the writing of Jonathan Arnold, is in the *Papers of the Continental Congress*, No. 26, folio 371.

On folio 372 is the following motion in the writing of John Witherspoon:

That the requisition of 2,000,000 be quotaed upon the States in the same proportions as the requisition of date
of 1,200,000.

the United States, separate from those laid for their own particular use, and to pass acts directing the collectors to pay the same to ~~the commissioner of the loan office or such other~~ persons as have or shall be appointed by the Superintendent of finance to receive the same within the State, and to authorise such receiver to recover the monies of the collectors for the use of the United States in the same manner, and under the same penalties, as state taxes are recovered by the treasurers of the respective states, or in such other manner as will most effectually secure the punctual collection and payment of the same, to be subject only to the orders of Congress or the Superintendent of finance.¹

And on the question for postponing, the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>			<i>Maryland,</i>	
Mr. Gilman,	ay } *		Mr. Hanson,	ay }
<i>Massachusetts,</i>			Carroll,	ay } ay
Mr. Osgood,	ay } ay		Hemsley,	ay }
Jackson,	ay }		<i>Virginia,</i>	
<i>Rhode Island,</i>			Mr. Jones,	ay }
Mr. Arnold,	no } no		Madison,	ay } ay
Howell,	no }		<i>North Carolina,</i>	
<i>Connecticut,</i>			Mr. Williamson,	ay }
Mr. Huntington,	ay } ay		Blount,	ay } ay
Dyer,	ay }		<i>South Carolina,</i>	
<i>New York,</i>			Mr. Rutledge,	ay }
Mr. Duane,	ay } ay		Ramsay,	ay } ay
L'Hommedieu,	ay }		Izard,	ay }
<i>New Jersey,</i>			Gervais,	ay }
Mr. Boudinot,	ay } div.		<i>Georgia,</i>	
Condict,	no }		Mr. Jones,	ay } *
<i>Pennsylvania,</i>				
Mr. Smith,	ay } ay			
Clymer,	ay }			

So it was resolved in the affirmative.

¹ This motion, in the writing of Charles Thomson, is in the *Papers of the Continental Congress*, No. 26, folio 373.

A motion was then made by Mr. [George] Clymer, seconded by Mr. [David] Ramsay, to strike out the words, "or in such other manner as will most effectually secure the punctual collection and payment of the same."

And the question, shall those words stand? passed in the negative.

A motion was then made by Mr. [Jonathan] Arnold, seconded by Mr. [David] Howell, to amend the motion farther by striking out the words, "and to pass acts directing the collectors, &c. to respective states," inclusive.

And on the question, shall the words moved to be struck out stand? the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Gilman,	ay	} *	Mr. Hanson,	ay	} ay
<i>Massachusetts,</i>			Carroll,	ay	
Mr. Osgood,	ay	} ay	Hemsley,	ay	
Jackson,	ay		<i>Virginia,</i>		
<i>Rhode Island,</i>			Mr. Jones,	ay	} ay
Mr. Arnold,	no	} no	Madison,	ay	
Howell,	no		<i>North Carolina,</i>		
<i>Connecticut,</i>			Mr. Williamson,	ay	} ay
Mr. Huntington,	no	} no	Blount,	ay	
Dyer,	no		<i>South Carolina,</i>		
<i>New York,</i>			Mr. Rutledge,	ay	} ay
Mr. Duane,	ay	} ay	Ramsay,	ay	
L'Hommedieu,	ay		Izard,	ay	
<i>New Jersey,</i>			Gervais,	ay	
Mr. Boudinot,	ay	} div.			
Condict,	no		<i>Pennsylvania,</i>		
Mr. Smith,	ay	} ay			
Clymer,	ay				

So it was resolved in the affirmative.

And on the question to agree to the motion as amended, the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Gilman,	ay	} *	Mr. Hanson,	ay	} ay
<i>Massachusetts,</i>			Carroll,	ay	
Mr. Osgood,	ay	} ay	Hemsley,	ay	
Jackson,	ay				
<i>Rhode Island,</i>			<i>Virginia,</i>		
Mr. Arnold,	no	} no	Mr. Jones,	ay	} ay
Howell,	no			Madison,	
<i>Connecticut,</i>			<i>North Carolina,</i>		
Mr. Huntington,	no	} no	Mr. Williamson,	ay	} ay
Dyer,	no			Blount,	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Duane,	ay	} ay	Mr. Rutledge,	ay	} ay
L'Hommedieu,	ay			Ramsay,	
<i>New Jersey,</i>			Izard,	ay	
Mr. Boudinot,	ay	} ay	Gervais,	ay	
Condict,	ay				
<i>Pennsylvania,</i>					
Mr. Smith,	ay	} ay			
Clymer,	ay				

So it was

Resolved, That it be impressed on the several states as absolutely necessary to lay taxes for raising their quotas of money for the United States, separate from those laid for their own particular use, and to pass acts directing the collectors to pay the same to such persons as have or shall be appointed by the Superintendent of finance to receive the same within the State, and to authorise such receiver to recover the monies of the collectors for the use of the United States, in the same manner, and under the same penalties as state taxes are recovered by the treasurers of the respective states; to be subject only to the orders of Congress or the Superintendent of finance.

The ordinance for regulating the Post Office was read a third time, and passed as follows:¹

¹ The ordinance was entered in the Journal by George Bond.

AN ORDINANCE FOR REGULATING THE POST OFFICE OF THE UNITED STATES OF AMERICA.

Whereas the communication of intelligence with regularity and despatch, from one part to another of these United States, is essentially requisite to the safety as well as the commercial interest thereof; and the United States in Congress assembled, being, by the Articles of Confederation, vested with the sole and exclusive right and power of establishing and regulating post offices throughout all these United States: and whereas it is become necessary to revise the several regulations heretofore made relating to the Post Office, and reduce them to one act:

Be it therefore ordained by the United States in Congress assembled, and it is hereby ordained by the authority of the same, that a continued communication of posts throughout these United States, shall be established and maintained by and under the direction of the Postmaster General of these United States, to extend to and from the State of New Hampshire and the State of Georgia inclusive,¹ and to and from such other parts of these United States, as from time to time, he shall judge necessary, or Congress shall direct.

And be it further ordained by the authority aforesaid, that the Postmaster General for the time being, shall, from time to time, superintend and direct the Post Office in all its various departments and services throughout the extent aforesaid, agreeably to the rules and regulations contained in this ordinance; and shall have full power and authority to appoint a clerk or assistant to himself, and such and so many deputy postmasters as he shall think proper, for whose fidelity he shall be accountable; each of whom shall reside at such place as the Postmaster General shall judge best suited to maintain a due and regular transportation and exchange of mails. And the said Postmaster General shall be, and hereby is authorised to allow, from time to time, to his said deputies respectively, such commissions on the monies to arise from postage in their respective departments, as he shall think their respective services may merit, so as that the said commissions shall not in the whole exceed twenty per cent. And shall, by himself or his said deputies respectively thereunto regularly authorised by him, from time to time, appoint the necessary post-riders, messengers and expresses, with such salaries and allowances as he or his said deputies respectively shall think meet.

¹ A draft of the ordinance up to this point, in the writing of Joseph Montgomery, is in the *Papers of the Continental Congress* No. 59, III, folio 411.

And be it further ordained by the authority aforesaid, that the Postmaster General, his clerk or assistant, his deputies, and post and express-riders, and messengers, or either of them, shall ¹ not knowingly or willingly open, detain, delay, secrete, embezzle or destroy, or cause, procure, permit or suffer to be opened, detained, delayed, secreted, embezzled or destroyed any letter or letters, packet or packets, or other despatch or despatches, which shall come into his power, hands or custody by reason of his employment in or relating to the Post Office, except by the consent of the person or persons by or to whom the same shall be delivered or directed, or by an express warrant under the hand of the President of the Congress of these United States, or in time of war, of the Commander in Chief of the armies of these United States, or of the commanding officer of a separate army in these United States, or of the chief executive officer of one of the said states, for that purpose, or except in such other cases wherein he shall be authorised so to do by this ordinance: (provided always, that no letter, franked by any person authorised by this ordinance to frank the same, shall be opened by order of any military officer, or chief executive officer of either of the states.) And that the Postmaster General, his assistant, deputies, post and express-riders, and messengers, and each and every of them, shall, without delay, take and subscribe the following oath, to wit:

“I, A. B., do solemnly and sincerely swear, declare or affirm, (as the case may require) that I will well and faithfully do, execute, perform and fulfil every duty required of me, and abstain from every act and thing forbidden by a certain ordinance passed by the United States of America in Congress assembled, on the 18th day of October, 1782, entitled ‘An ordinance for regulating the Post Office of the United States of America.’”

And be it further ordained ² by the authority aforesaid, that if the Postmaster General shall be guilty of a breach of the said oath or

¹ The following in the draft was struck out: without delay severally and respectively take and subscribe the following oath or affirmation, to wit: I, A. B. do solemnly sincerely swear declare or affirm, (as the case may require) and call God to witness that I will

² The following was struck out in the draft: by the authority aforesaid that if any person shall in any act, matter or thing whatsoever be guilty of a breach of the said oath or affirmation or any part thereof and be thereof convict, he shall be deemed forfeit and pay not exceeding one thousand dollars and adjudged guilty of wilful and corrupt perjury and incur and suffer such pains and penalties as by law are to be inflicted in cases of wilful and corrupt perjury, and be thereafter incapable of holding any office or place of trust or profit under these United States,

affirmation or any part thereof, and be thereof convict, he shall forfeit and pay one thousand dollars, to be sued for and recovered in an action of debt, in the State where the offence shall be committed, by the treasurer of the United States for the time being: and if any postmaster, post-rider, or other person employed in the Post Office Department, shall be guilty of a breach of the said oath or affirmation or any part thereof, and be thereof convict, each one so offending shall forfeit and pay three hundred dollars, to be sued for and recovered in an action of debt, in the State where the offence shall be committed, by the Postmaster General for the time being: all which forfeitures, when recovered and received, shall be accounted for by the persons recovering the same, and applied towards defraying the necessary expences of the Post Office: and every person employed in the Post Office Department, who shall be guilty of a breach of the said oath or affirmation shall, besides paying the above-mentioned forfeitures, be rendered incapable ever hereafter of holding any office or place of trust or profit under these United States: provided always, that the foregoing oath shall not be required of any special express or messenger, to be appointed at the request of any particular person or persons, in the manner herein after directed, unless the same shall be thought necessary by the Postmaster ||General|| or his deputy who shall have appointed him; which oath shall, without delay, be made by the Postmaster General before the President of the Congress of these United States;¹ and by each of the said clerk or assistant, deputies and post-riders (except as is above provided with respect to special expresses and messengers) before the Postmaster General, or before any civil magistrate nominated by him for that purpose; all which persons are hereby respectively authorised to administer the said oath; and shall respectively make and sign certificates thereof: the certificate to be signed by the President, to be lodged in the office of the secretary of the Congress of these United States, and the other certificates respectively to be returned into the office of the Postmaster General; there to be kept as evidence of the several qualifications therein respectively certified.

And be it further ordained by the authority aforesaid, that the Postmaster General of these United States for the time being, and his deputy and deputies, thereunto by him sufficiently authorised, and his and their agents, post-riders, expresses and messengers

¹ The following words were struck out in the draft: who is hereby authorised to administer the same, and his certificate thereof signed by him be filed with their secretary.

respectively, and no other person whatsoever, shall have the receiving, taking up, ordering, despatching, sending post or with speed, carrying and delivering of any letters, packets or other despatches from any place within these United States¹ for hire, reward, or other profit or advantage for receiving, carrying or delivering such letters or packets respectively; and any other person or persons presuming so to do shall forfeit and pay for every such offence, twenty dollars, to be sued for and recovered in an action of debt with costs of suit, by the Postmaster General or his deputy, in the State in which the offence shall be committed; and such sums as shall be thus recovered and received, shall be accounted for by the Postmaster General, and applied towards defraying the necessary expences of the Post Office. Provided nevertheless, that nothing herein contained shall be construed to extend to any messenger purposely sent on any private affair, and carrying letters or packets relating to such affair only; or to persons sent officially on public service ~~from places where no Post Office is established~~. And provided also, that nothing herein contained shall in any manner affect any private cross post-rider that may be employed by any of the citizens of these United States with the consent of the Postmaster General or his deputy, until a public rider can be established on such cross road.²

And be it further ordained by the authority aforesaid, that if any person, not being a post or express rider, in the service of the general Post Office, shall carry any letters, packets, or other despatches, from one place to another, within these United States, on any of the post roads, to any place within these United States, for hire or reward, except in cases as is herein before excepted, or shall not, when bringing letters from beyond sea, for hire or reward, deliver the same at the

¹ The following in the draft was struck out: or any foreign kingdom or country to any place within these United States where he shall have settled, post offices and posts or running messengers, except such letters and packets as shall respect goods sent by common known carriers or drivers of stage coaches or waggons, and which shall respectively be delivered with the goods such letters do concern without hire, reward or other profit or advantage for receiving or delivering such letters or packets respectively, and except also letters of merchants, masters or owners of any ships, barques or vessels of merchandise respecting any cargo or loading therein sent to be delivered by any such master or other person employed by him for the purpose according to their respective directions, so as the same shall be thus delivered without any pay or other reward, advantage or profit for the carriage and delivery of the same, and except also any letter or packet to be sent and conveyed by any private person in his or her way of travel, journey or passage without any pay or other reward, advantage or profit for the carriage and delivery of the same, or by any messenger purposely sent for any private affair, or officially on public service.

² This sentence is not in the draft.

Post Office, if any there be at the place of his or her arrival, he or she shall, in each of the before mentioned cases, forfeit and pay for every such offence twenty dollars, to be recovered by the Postmaster General or any of his deputies, in an action of debt, in the State wherein the offence shall have been committed, with costs of suit, and applied towards the expences of the post office, and be accounted for accordingly; and if such offence shall have been committed by any person holding a civil or military commission under these United States, he shall, on conviction thereof, forfeit his commission. And for every letter, packet or other despatch from beyond sea, which any person shall so deliver at the Post Office, he shall receive of the Postmaster, at the Post Office, for the delivery of the same, 1-90th of a dollar.¹

And be it further ordained by the authority aforesaid, that the Postmaster General shall cause the mail to be carried with all care and despatch, at least once in every week, to and from each of the stated post offices, and his deputies shall keep and transmit to him regular, particular, just and quarterly accounts of the incomes and expenditures of their respective offices; and from those and such other materials as shall be necessary for the purpose, the Postmaster General shall form and keep regular and just accounts of the incomes and expenditures of the general Post Office, which he shall annually deliver to the comptroller of accounts of these United States, attended with the quarterly accounts of each office, and vouchers for his examination and passing.²

¹ The draft has it 2/90ths of a dollar.

² The following was struck out from the draft:

And whereas it may be necessary for the Postmaster General, or his clerk or assistant occasionally to visit the several post offices in these United States or otherwise to travel for the performance of their respective duties of office, Be it therefore ordained by the authority aforesaid that they shall in such case be severally and respectively allowed for the time of necessary absence from home on such business over and above their respective salaries dollars per day, in full for horse hire, travelling expences and all other charges and disbursements whatsoever during such visitation and travel as aforesaid and no more.

And be it further ordained by the authority aforesaid, That the Postmaster General and his deputies shall respectively regularly publish in some public newspaper of the State wherein their respective offices shall be a list of all letters which shall severally have remained in their respective offices by the space of three weeks and at the expiration of six months thereafter shall open and inspect such letters and shall carefully preserve the same with the papers therein respectively contained, insert in a book, to be kept for the purpose the date of every such letter and the name and place of direction on the same and publish such direction (purporting thereon if such is the case that the letter contains valuable inclosures or other matters of importance to the parties) in one of the public newspapers aforesaid and deliver such letter.

And be it further ordained by the authority aforesaid, that the Postmaster General's deputies respectively, shall regularly publish, at the expiration of each quarter, (if it can conveniently be done) in ~~some newspaper of the State in which the respective offices shall be~~ one of the most convenient public newspapers, for three successive weeks, a list of all letters at that time remaining in their offices; and at the expiration of the subsequent quarter, shall send such of the letters so published as then remain, as dead letters to the general Post Office, where they shall be opened and inspected by the Postmaster General, who shall ~~destroy such as contain no valuable enclosures, but~~ carefully preserve them, with the papers therein respectively contained, and shall insert in a book, to be kept for that purpose, the date of such letter, and the name and place of direction on the same, together with a particular account of the enclosures contained therein; and at the expiration of each quarter the Postmaster General shall cause to be published, in one of the newspapers of the State in which the owners of such valuable papers are supposed to reside, (if a newspaper is printed in such State) else in the most convenient paper, an advertisement, informing that such papers are in his possession, and shall deliver such letter and enclosures to the person or persons to whom the same shall be directed, or his, her, or their order at the Post Office, he, she, or they first paying the postage for the same, at the rates from time to time established by these United States in Congress assembled, and the necessary expence of such publications as aforesaid; and in case of neglect to take up such letters, the necessary expence shall be charged to the United States.¹

¹ The following was struck out from the draft:

And be it further ordained by the authority aforesaid that if any person or persons being an enemy or enemies or a subject or subjects of any of these United States shall rob any post-rider, express or messenger belonging to the post office of any mail letter or other dispatch every such offender if an enemy shall on conviction thereof by a court martial suffer as a spy and if a subject of either of these United States shall if convicted by a due course of law in the State where the offense shall be committed suffer as a felon according to the law of such State.

And be it further ordained by the authority aforesaid that the stated post-riders shall not go out of their usual courses in order to pass at head quarters of the main Army or of any separate army or at any principal military post unless so directed by the Postmaster General. But when it shall become necessary or the same shall be required by the Commander in Chief or Commander of a separate army the postmaster nearest thereto shall hire a rider on the best terms he shall be able to carry the letters and other dispatches to and from thence and such post office and shall from time to time report to the Postmaster General his proceedings herein. And also that in every case of a robbery of the mail the Postmaster General, his clerk or assistant or any deputy postmaster shall and may advertise in any of the public newspapers of these United States and accordingly pay such reward as he shall judge proper, not exceeding _____ for detecting, securing and bringing to punishment the offender or offenders.

And be it further ordained by the authority aforesaid, that the Postmaster General, and his deputies respectively shall, and they are hereby authorised, whenever the danger of robberies of the mail shall, in their respective judgments, render the same necessary, to hire occasional expresses for carrying the public despatches, and such private letters as, from time to time, shall be in the post-offices; who shall not be confined to fixed days, nor to travel the usual post roads, but shall, in those respects, be subject to the order and direction of the Postmaster General and his deputies respectively. And to the end that the expence of several expresses destined to the same place, at the same time, may be avoided, be it further ordained by the authority aforesaid, that all extraordinary expresses in the public service shall, if a Post Office be established at the place from which they shall severally take their departure, be hired by the Postmaster General or his deputy, and set out from and return to such Post Office, with the letters, packets and despatches to be carried by them respectively.

And be it further ordained by the authority aforesaid, that the postage of all letters, packets and despatches, to and from the different post offices within these United States, shall be ~~the same as they were at the commencement of the present war with the addition of a sum not exceeding 4/90ths of a dollar upon every Letter, Packet or Dispatch which shall come into the Post Office from beyond seas~~ [at the following rates, in pennyweights and grains of silver, estimating each pennyweight as at present, at 5-90ths of a dollar, to wit:

For any distance not exceeding sixty miles, one pennyweight eight grains; upwards of sixty, and not exceeding one hundred, two pennyweight; upwards of one hundred, and not exceeding two hundred, two pennyweight sixteen grains, and so on, 16 grains advance for every hundred miles; and for all single letters to or from Europe, by packet or despatch vessels, four pennyweight: the above rates to be doubled for double letters, trebled for treble letters, and a packet weighing an ounce, to be charged equal to four single letters, and in that proportion if of a greater weight: and to the foregoing rates shall be added a sum not exceeding 4-90ths of a dollar upon every letter, packet or despatch which shall come into the Post Office from beyond sea, by any other conveyance than packets or despatch vessels;]¹ and every letter, packet and despatch, except dead letters, may and shall be retained in the office where the same shall have arrived, which shall

¹ The part in brackets was not in the draft.

be nearest to the place of direction, until the postage thereon shall be paid.¹

And be it ordained by the authority aforesaid, that it shall and may be lawful for the Postmaster General, or any of his deputies, to license every post-rider to carry any newspapers to and from any place or places within these United States, at such moderate rates as the Postmaster General shall establish, he rendering the post-riders accountable to the Postmaster General, or the respective deputy postmasters by whom they shall severally be employed, for such proportion of the moneys arising therefrom as the Postmaster General shall think proper, to be by him credited to these United States in his general account.²

And be it further ordained by the authority aforesaid, that in case the income of the Post Office shall, in any year, exceed the expences thereof, the Postmaster General shall³ pay to the treasurer of the United States the surplus, until the sums of money heretofore advanced, or which shall be hereafter advanced, by the United States for the support of the general Post Office, with interest thereon at six per cent. per annum, shall be repaid, after which such surplus shall be appropriated and applied to the establishment of new post offices⁴ and the support of packets, to render the Post Office Department as extensively useful as may be;⁵ and if the necessary expences of that establishment shall exceed the profits arising from the Post Office, such excess, when properly ascertained, shall be paid on warrants of the Superintendent of finance, by the treasurer of the

¹ The following in the draft was struck out:

And whereas it will greatly tend to the communication of due information to the inhabitants of these United States to enable the transportation of public newspapers by the post-riders at a cheaper rate than the postage of letters, packets or other despatches.

² The following was struck out from the draft: And be it further ordained by the authority aforesaid that no letter, packet or other despatch shall be opened or detained in any of the post offices of these United States, otherwise than is herein and hereby provided for.

³ The following was struck out from the draft: shall carry the same to the credit of the United States in the next year's account, to serve as a ground for the abatement of the prices of postage in such manner as these United States shall direct.

⁴ The draft said: "and roads."

⁵ The following was struck out from the draft:

Nevertheless, should it appear to the Postmaster General that the interest of the United States requires the establishment of any particular offices or packets before the money heretofore advanced or which may be advanced shall be repaid as aforesaid, he is hereby authorised in such case to apply so much of the surplus as shall be necessary to that use.

United States, to the Postmaster General, in quarterly payments, to enable him effectually to support the Post Office.

And be it further ordained by the authority aforesaid, that the salary of the Postmaster General shall be fifteen hundred dollars, and that of his clerk or assistant one thousand dollars, per annum.

And be it further ordained by the authority aforesaid, that letters, packets, and despatches to and from the members and secretary of Congress, while actually attending Congress, to and from the Commander in Chief of the armies of these United States, or commander of a separate army,¹ to and from the heads of the departments of finance, of war, and of foreign affairs, of these United States, on public service,² and single letters directed to all officers of the line of the army in actual service shall pass and be carried free of postage.

And be it further ordained, ~~that the postage of all letters to officers of the army, either in the line or staff departments in actual service (except letters on public service from those whose letters and packets pass free of postage) shall on delivery thereof be charged to the officers respectively to whom directed, an account of which shall be collected and transmitted by the Postmaster General every six months to the Secretary at War for settlement.~~ that single letters, directed to any officers of the line, in actual service, shall be free of postage.

And be it further ordained by the authority aforesaid, that all former and other acts, ordinances and resolutions of these United States in Congress assembled, heretofore made relating to the Post Office, be, and the same, and each and every of them is and are hereby repealed and made void. Done, &c.³

The Committee of the Week [Mr. David Ramsay, Mr. Ralph Izard, Mr. John Taylor Gilman] on the memorial of Monsieur Lavaney complaining of injustice done him by the depreciation of the paper currency, report that it be referred to the Superintendent of Finance to report thereon.

On the memorial of Captain Schreiber praying for ~~pay~~ and an exchange they report that no relief can be given him without breaking

¹ The following was struck out from the draft: and from members of Congress to the governors or chief magistrates of the states which they represent, to and from the President of Congress, the Commander in Chief, all the officers of the armies of these United States while on duty.

² The following was struck out from the draft: and to and from any foreign minister residing at or near Congress.

³ A copy of this ordinance, in the writing of George Bond and Benjamin Bankson, of the Secretary's office, is in the *Papers of the Continental Congress*, No. 59, III, folio 331. The draft, in the writing of John Morin Scott, is on folio 381. See *ante* July 19.

in on established regulations, and injuring the public service as Congress (tho' extremely desirous of a general exchange) have resolved to make no more partial exchanges.¹

TUESDAY, OCTOBER 22, 1782

On the report of a committee, consisting of Mr. [David] Ramsay, Mr. [Samuel] Osgood, and Mr. [John Taylor] Gilman, to whom was referred a letter of the 9, from the Superintendent of finance, touching a proposal of his Excellency the Governor of Virginia, that sundry articles of cloathing now in France, belonging to that State, should be taken for the use of the United States:

The Committee consisting of M^r [David] Ramsay, M^r [Samuel] Osgood, and M^r [John Taylor] Gilman, to whom was referred a letter of the Superintendent of Finance of the 9th of Oct^r 1782, have conferred with the Secretary at War on the subject referred to them, and are informed that the goods which are the subject of the Superintendent's letter are wanted; they therefore recommend that Congress resolve—

Resolved, That the Superintendent of finance take order on the subject of his letter of the 9 of October, 1782 ~~relative to some goods proposed to be transferred by the State of Virginia to Continental account.~~²

On a report from the Secretary at War, to whom was referred a memorial of Major D. S. Franks:

WAR OFFICE *Sept. 13, 1782.*

SIR,

When I reported to Congress the officers necessary to be retained in service not annexed to the line of any State, the particular situation of Major Franks was unknown to me, otherwise I must in justice have named him as one necessary to be retained, for it appears by M^r

¹ This report, in the writing of David Ramsay, is in the *Papers of the Continental Congress*, No. 32, folio 409. The indorsement shows that it was passed on this day.

Also, was read on this day a letter of the same date from Ebenezer Hazard, Postmaster General. It is in No. 61, folio 117.

² This report, in the writing of David Ramsay, is in the *Papers of the Continental Congress*, No. 20, II, folio 287.

Morris' certificate that assurance that he should retain his commission and pay, was the motive of his going to Europe, and was the only emolument for his services.

I beg leave to submit to the consideration of Congress the following resolve,

Resolved, That Major David S. Franks hold the rank and receive the pay of a major in the line of the army of the United States, until the new arrangement shall take place the 1st day of January next; and that he then be considered as retiring from service under the same emoluments as those who retired under the resolution of the 31 day of December last.¹

The committee, consisting of Mr. [James] Duane and Mr. [Hugh] Williamson, to whom was referred a letter of 18 September, from Oliver Pollock, report,

~~That your Committee have duly considered the memorial and case of Mr. Oliver Pollock submitted to them.—That to obtain a full idea of the transaction they applied to the Superintendent of Finance who was acquainted with it from its first commencement.—That the Superintendent furnished them with his report contained in the paper marked A and with a collection of evidence to elucidate the same being the papers marked No. 1, No. 2, No. 3 and number 4, all which are herewith submitted to the consideration of Congress.~~

~~That your Committee [are of the opinion that Mr. Pollock's accounts with the United States and those with the State of Virginia are in some cases complicated in such a manner that the settlement of the former must necessarily be deferred till that of the latter is perfected.]~~

[That having examined sundry letters and papers, which they submit to the consideration of Congress, they are of opinion that Mr. Pollock's accounts with the United States, and those with the State of Virginia, are in some cases complicated in such manner that the settlement of the former must necessarily be deferred till that of the latter is perfected; wherefore] ~~having examined sundry letters and papers which are herewith referred to Congress~~ as well as from the

¹ This report is in the *Papers of the Continental Congress*, No. 149, I, folio 683.

want of some necessary information from Governor Galvez, Mr. Pollock's accounts with the United States must for the present be left open ~~until those with the State of Virginia are closed~~; that Mr. Pollock appears to have exerted himself with much zeal and industry as commercial agent of the United States at New Orleans; that he also appears to have advanced large sums out of his private fortune, and to have contracted large debts with the subjects of his Catholic Majesty, partly for the service of the United States, and partly for the service of the State of Virginia; that public faith, justice and humanity require that the sundry accounts should be liquidated and the balances paid, or at least security given for payment of the same, whenever the state of our public funds shall render it practicable; that therefore it be recommended to the State of Virginia to cause the accounts of Mr. Pollock with that State to be adjusted with as much despatch as may be practicable, in order that Mr. Pollock's accounts with the United States may also be adjusted; Whereupon:

Resolved, That Congress agree to the said report.¹

A memorial of Lieutenant Colonel Silas Talbot being read, setting forth that he is embarrassed in the settlement of his accounts by his promotion as a captain of the navy of the United States, for which service he however never received any commission; Whereupon:

Resolved, That it be an instruction to the Superintendent of finance, to cause the account of the said Silas Talbot to be adjusted and settled as a lieutenant colonel in the army of the United States, notwithstanding the resolution of Congress of the 17 September, 1779, appointing him a captain in the navy.²

¹ This report, in the writing of James Duane, except the part in brackets, which is in that of Hugh Williamson, is in the *Papers of the Continental Congress*, No. 50, folio 21. A copy is on folio 25.

² This report, in the writing of James Duane, is in the *Papers of the Continental Congress*, No. 41, X, folio 173. Talbot's memorial, dated September 17, is in No. 41, X, folio 169.

On the report of a committee, consisting of Mr. [James] Madison, Mr. [Daniel] Carroll and Mr. [Samuel] Osgood, to whom was referred a letter of 18 August, from the honourable J. Adams, with several other papers,

Resolved, That Mr. J. Adams be informed, that Congress approve of the reason assigned in his letter of the 9th day of June last, for not then proposing a treaty of alliance with the United Provinces; but that the accomplishment of such a coalition among the parties at war with Great Britain, as will extinguish all possibility and hope in the latter of disuniting her enemies by negotiation, being viewed by Congress as a very important object, it is their wish, that no opportunity may be lost of accelerating the said treaty whenever the concurrence of his Most Christian Majesty's minister and other circumstances shall have prepared the way for the proposition.¹

WEDNESDAY, OCTOBER 23, 1782

On the report of a committee, consisting of Mr. [Samuel] Osgood, Mr. [Ralph] Izard, Mr. [Theodorick] Bland, and Mr. [James] Duane, appointed to consider and report the most just and practicable means of reducing the expenditures of the United States:

Resolved, That the establishment of the quartermaster's department, by the resolutions of Congress of the 15 July, 1780, be, from and after the first day of January next, repealed, and the following regulations then adopted in its stead:

¹ This resolution was entered only in the manuscript Secret Journal, Foreign Affairs, and in Secret Journal, No. 4. The report, in the same language as the resolution, is in the writing of James Madison and is in the *Papers of the Continental Congress*, No. 19, I, folio 23. Adams's letter of June 9 is printed in the *Diplomatic Correspondence of the American Revolution* (Wharton), V, 482; and his letter of August 18 on page 665.

On this day, according to the indorsement, was read a letter of the same date from Joseph Carleton, in the absence of the Secretary at War, inclosing a general return of the recruits that have joined the main army since the commencement of the present year. It is in the *Papers of the Continental Congress*, No. 149, II, folio 63.

Resolved, That there be one quartermaster general; the present quartermaster general to be continued in office, and hereafter, as vacancies arise, to be appointed by Congress:

That the quartermaster general, with the approbation of the Commander in Chief, appoint the following officers for the armies of the United States, viz.

For the main army. One deputy quartermaster; one waggonmaster; one commissary of forage; one director. and one sub-director, of a company of artificers:

For the southern army. One deputy quartermaster; one deputy commissary of forage; one deputy waggonmaster; one director, and one sub-director, of a company of artificers: and as many assistants as the service may require in the main and southern army, to perform the duties of quartermasters of brigades, storekeepers, clerks, and such other duties in the quartermaster's department as the service may require, and also as many waggon conductors:

That the pay per month of the officers in the quartermaster general's department, including their pay in the line of the army, shall be as follows:

Quartermaster general, 166 $\frac{2}{3}$ dollars, deputy quartermaster with the southern army, 125 dollars, deputy quartermaster with the main army, 75 dollars, waggonmaster, 60 dollars, commissary of forage for the main army, 60 dollars, commissary of forage for the southern army, 60 dollars, deputy waggonmaster for the southern army, 50 dollars, assistants in the quartermaster's department, each, 30 dollars, waggon conductors, each, 20 dollars, directors of artificers, each, 40 dollars, sub-directors of ditto, each, 26 $\frac{2}{3}$ dollars.

That the following be the proportion of waggons and bat horses to the different ranks of officers, unless otherwise directed, in special cases, by the Commander in Chief or commanding officer of the southern army:

The Commander in Chief and commanding officer of the southern army, for their own accommodation and for their

families, as many baggage waggons and bat horses as they may think necessary.

Major general and family, one covered four-horse waggon, and one two-horse waggon.

Brigadier general and family, one covered four-horse waggon.

Colonel, lieutenant colonel and major, one covered four-horse waggon.

Captains and subalterns of a regiment, for their baggage, one covered four-horse waggon.

Surgeon, paymaster, adjutant and quartermaster, regimental staff, one covered four-horse waggon.

Brigade quartermaster, one bat horse.

For the tents of a regiment, for every 75 men, but this to be varied, according to the weight of the tents and state of the roads, one open four-horse waggon.

Quartermaster general, for his baggage, according to his rank; for his books, papers, &c. as many as he shall find necessary.

Deputy quartermaster with the main army or with a separate army, for his baggage, and for his books papers, &c. one covered four-horse waggon.

Commissary of forage, with the main army, his clerks and assistants, one covered four-horse waggon.

Deputy commissary of forage, with a separate army, one two-horse waggon.

Waggonmaster and clerks, one covered four-horse waggon.

Deputy waggonmaster with southern army, his clerks and assistants, one two-horse waggon or two bat horses.

Inspector general, for his baggage, according to his rank; and for his papers as the Commander in Chief may direct.

Inspectors, one two-horse waggon.

Adjutant general, two covered four-horse waggons. For the baggage of his assistant, clerks, and official papers, one two-horse waggon.

Judge advocate, one two-horse waggon.

Deputy judge advocate for southern army, one two-horse waggon.

Commissary of prisoners, one two-horse waggon.

Deputy commissary of prisoners, southern army, one two-horse waggon.

Provost marshal, with prisoners and guards, one open four-horse waggon.

Field commissary of military stores, and his deputy with the main and southern army, each, one bat horse.

Deputy paymaster with the main and southern army, each, one two-horse waggon.

Field postmaster, one bat horse.

Provided, That if the number of waggons stated above, should prove insufficient, the quartermaster general may occasionally furnish such additional carriages as the commander in Chief, or commanding officer of a separate army, or the Secretary at War, may direct.

That a ration of forage per day shall consist of fourteen pounds of hay and ten quarts of oats for each horse:

That there be issued to the Commander in Chief, and to the commanding officer of a separate army, and to those of their suite, as many rations as the service may require.

That there shall be allowed for saddle horses:

To a major general and family, <i>rations</i> ,	7	Deputy with southern army,	2
Brigadier general and family,	5	Waggonmaster and clerks,	3
Colonel of infantry or artillery,	2	Deputy waggonmaster, separate army,	2
Lieutenant colonel,	2	Inspector general, agreeable to his rank.	
Major,	2	Inspector, in addition to what he draws	
Chaplain,	1	in the line,	1
Surgeon,	1	Adjutant general,	4
Adjutant,	1	Deputy with a separate army,	3
Quartermaster,	1	Each assistant,	<i>rations</i> , 2
Brigade quartermaster,	1	Commissary of prisoners,	2
Quartermaster general as the service		Deputy with a separate army,	2
may require.		Judge advocate,	2
Deputy quartermaster with the army,	2	Deputy with separate army,	2
Captain of engineers,	1	Provost marshal,	1
Commissary of forage,	2 ¹	Field commissary of military stores,	2

¹ The entries in the Journal for the remainder of this day were by George Bond.

Deputy with a separate army,	2	Major,	2
Deputy paymaster,	1	Captain,	2
Officers of cavalry to be allowed to draw forage for the following number of horses, provided they actually keep the same:		Lieutenant,	1
		Cornet,	1
		Paymaster,	} Exclusive of allowance as officers in the line, } 1
		Quartermaster,	
Colonel,	3	Adjutant,	
Lieutenant colonel,	2	Surgeon,	1

That any of the officers entitled to forage, who shall keep their horses at their own expence, shall be paid therefor by the quartermaster general, at the average price given by him for the forage of the army.

Resolved, That the quartermaster general, with the approbation of the Secretary at War, shall appoint so many assistants to reside in the several states as the public service may require.

That all officers in the quartermaster general's department, of whatever denomination, shall take the oaths of allegiance and the oath of office prescribed by Congress, before they enter on business.

That the quartermaster general make a return of the names and station of each person to be appointed in his department.

That in settling the accounts of officers in the said department, no pay or allowance whatever be granted to any person employed therein, whose name and employment, together with a certificate of his having taken the aforesaid oaths, shall not have been returned within two months after his acceptance of such office.¹

¹ This report, in the writing of a clerk, is in the *Papers of the Continental Congress*, No. 22, folio 166.

On this day, according to the indorsement, a letter of 22 from Ebenezer Hazard, Postmaster General, was read and referred to Mr. [James] Duane, Mr. [Elias] Boudinot and Mr. [Daniel] Carroll. It is in No. 61, folio 123.

THURSDAY, OCTOBER 24, 1782

The committee, consisting of Mr. [James] Duane, Mr. [Elias] Boudinot and Mr. [Daniel] Carroll, to whom was referred a letter of 22 from E. Hazard, postmaster general, brought in the draught of a "supplemental ordinance for regulating the Post Office of the United States of America;" which was read a first time, and to-morrow assigned for a second reading.

The Committee of the Week [Mr. Jonathan Arnold, Mr. Hugh Williamson, Mr. John Lewis Gervais] having considered the memorial of Jacob Watson who alledges that he is confined in the Jail of Philadelphia for debts contracted on public account, and that part of his misfortunes arise from the purchase of a horse which he bought from Cap^t Cha^s ~~Prector~~ Turnbull of the Artillery, which horse is said to be public property.

~~Report, That such part of Jacob Watson's Memorial as respects his being imprisoned for public debt, be referred to the Executive of Pennsylvania; and that such part of it as respects the public horse said to be public property and sold him by Capt. Turnbull be referred to the Sec^y at War.~~

Report, That Jacob Watson's memorial be referred to the Secy. at War.¹

OFFICE OF FINANCE, 23d October, 1782.

SIR,

The enclosed Memorial of the late Issuing Commissaries was transmitted by me to the Commissioner for settling the accounts of that Department.

I have now the Honor to transmit your Excellency the Copy of his Letter (of the twenty first) on that Subject.²

¹ This report, in the writing of Hugh Williamson, is in the *Papers of the Continental Congress*, No. 32, folio 417. It is indorsed "Passed 24th."

² This report is in the *Papers of the Continental Congress*, No. 137, I, folio 877. It was referred on this day, as shown by Committee Book No. 186, to Mr. [George] Clymer Mr. [Eliphalet] Dyer and Mr. [James] Duane. See *ante*, October 9, *note*.

On this day, as the indorsement states, was read a letter of October 21 from the Superintendent of Finance on the dissolution of the contracts for supplying the army. It is in No. 137, I, folio 821.

FRIDAY, OCTOBER 25, 1782

The supplemental ordinance for regulating the Post Office of the United States of America, was read a second time, being debated by paragraphs, and some amendments made:

Ordered, That Monday next be assigned for the third reading.¹

MONDAY, OCTOBER 28, 1782

The supplemental ordinance for regulating the Post Office was read a third time, and passed as follows:

The Committee, consisting of Mr. [James] Duane, Mr. [Elias] Boudinot and Mr. [Daniel] Carroll, to whom was referred the letter from Ebenezer Hazard, Postmaster General, on the subject of the Ordinance passed for regulating the Post Office, present the following draft of an explanatory Ordinance for regulating the Post Office, to wit:

~~AN~~ EXPLANATORY A SUPPLEMENTAL ORDINANCE FOR REGULATING THE
POST OFFICE OF THE UNITED STATES OF AMERICA.

Whereas, since the passing the ordinance for regulating the Post Office of the United States of America, it hath been represented that the allowance thereby made of commissions to a deputy postmaster, on the money only arising from the postage of letters, would in many instances be inadequate to the service, and that the provision that all the dead letters should be registered and preserved, will occasion great and useless trouble and expence; and no provision is made therein for the deputy postmaster with the main army; in order therefore to remedy the defects of the before-mentioned ordinance:

Be it ordained by the United States in Congress assembled, and it is hereby ordained by the authority of the same, that it shall and may be lawful for the Postmaster General for the time being, to allow to his respective deputies such commissions as he shall think their respective services may merit, not exceeding twenty per centum on the postage of all letters, making the same allowance for free letters

¹ On this day, according to the indorsement, was read a letter of Captain Segond. "So far as relates to his request for leave to go into New York to recover hisservants and baggage" it was referred to the Secretary at War to take order. A copy of the letter is in the *Papers of the Continental Congress*, No. 78, XXI, folio 261.

as if they paid postage: and that instead of registering and preserving all dead letters, from time to time, remaining in the general Post Office, it shall be sufficient and the Postmaster General is only required to preserve such of them, the contents and enclosures of which may be valuable.

And be it further ordained by the authority aforesaid, that the act of the United States in Congress assembled, respecting the postmaster at head quarters of the army, passed on the 11th day of March, one thousand seven hundred and eighty-two, be, and the same is hereby revived and declared to be in full force.

And be it further ordained by the authority aforesaid, that it shall and may be lawful for the Postmaster General for the time being, to allow and pay to any informer, one moiety of the penalties which may be recovered upon his information, for offences against the 4th and 5th clauses of the before mentioned ordinance for regulating the Post Office of the United States of America. Done, &c.¹

Congress resumed the consideration [of] the report of the committee, on the letter of 19 August from the Commander in Chief, &c. and the same being postponed, a motion was made by Mr. [Hugh] Williamson, seconded by Mr. [David] Ramsay, to resolve

“That Congress ~~have no occasion~~ see no sufficient reason to recede from the opinion they expressed in their resolution of the 29 of April last, however as the Commander in Chief of the British army has expressly declared his disapprobation of the barbarous murder of Captain Huddy and has caused inquisition to be made concerning the murderer, and has promised that further enquiry shall be made, &c., Congress recommend to the Commander in Chief that he suspend the execution of any British officer in retaliation for the death of Captain Huddy until the promised inquisition shall be made, or so long as he may find consistent with the honor of the United States and safety of their citizens.”²

¹ This ordinance, in the writing of James Duane, is in the *Papers of the Continental Congress*, No. 59, III, folio 377.

² This motion, in the writing of Hugh Williamson, undated, is in the *Papers of the Continental Congress*, No. 19, VI, folio 405.

A motion was made by Mr. [David] Howell, seconded by Mr. [Ezra] L'Hommedieu, to strike out the words "Congress see no sufficient reason to recede from the opinion they expressed in their resolution of the 29 April last however;" and on the question, shall those words stand, the yeas and nays being required by Mr. [John] Witherspoon,

<i>Massachusetts,</i>				<i>Delaware,</i>			
Mr. Osgood,	ay	} *		Mr. McKean,	ay	}	
<i>Rhode Island,</i>				Dickinson,	ay	}	ay
Mr. Arnold,	no	}	no	Wharton,	ay	}	
Howell,	no	}		<i>Maryland,</i>			
<i>Connecticut,</i>				Mr. Hanson,	ay	}	
Mr. Huntington,	no	}	no	Carroll,	ay	}	ay
Dyer,	no	}		Hemsley,	ay	}	
<i>New York,</i>				<i>Virginia,</i>			
Mr. Duane,	ay	}		Mr. Bland,	ay	}	*
L'Hommedieu,	no	}	div.	<i>North Carolina,</i>			
<i>New Jersey,</i>				Mr. Williamson,	ay	}	
Mr. Boudinot,	ay	}		Blount,	ay	}	ay
Witherspoon,	ay	}	ay	<i>South Carolina,</i>			
<i>Pennsylvania,</i>				Mr. Rutledge,	ay	}	
Mr. Montgomery,	ay	}		Ramsay,	ay	}	ay
Smith,	ay	}	div.	Izard,	ay	}	
Clymer,	no	}		Gervais,	ay	}	
Atlee,	no	}					

So the words were struck out.

Another motion on the subject was made by Mr. [John] Rutledge:

Whereas it appears, from the Trial of Richard Lippencut, by a British Court Martial, that he is guilty of the Murder of Capt. Josh. Huddy, and although the said Lippencut was acquitted by the said Court, yet it does not appear that their sentence is confirmed by the British Commander in Chief, but, on the contrary, he has reprobated Lippencut's conduct, and declared that he hath ordered further Inquisition, and a Prosecution of such other persons as may appear to have been Criminal, and that it is his Intention to prosecute the Matter with all the Effort which a due regard to Justice will admit. In order, therefore, to give the British General a further

opportunity of saving the innocent by delivering the said Lippencut, or some of the other ~~persons who are guilty of the said Murder~~ guilty persons,

Resolved, That the Commander in Chief be authorised to suspend the execution of a British officer in retaliation for the Murder of Capt. Huddy ~~until the~~ ~~day of~~ for so long a time as he may think consistent with the Honour of the United States and the Safety of its Citizens.¹

Ordered, That the letter of 19 August from the Commander in Chief and the papers accompanying it, the report of the late committee, and the motions on the subject, be referred to a new committee of five: the members, Mr. [John] Rutledge, Mr. [Samuel] Osgood, Mr. [Joseph] Montgomery, Mr. [Elias] Boudinot, and Mr. [James] Duane.

WAR OFFICE, *October 28, 1782.*

SIR,

There are many officers prisoners of war who are deranged, among the number is Captain Schreiber, whose memorial is referred to me. Application from the officers under those circumstances for pay and subsistence are daily made. I wish the directions of Congress respecting this matter. The situation of the foreign officers who have no means of support but what arises from their pay and rations is peculiarly hard. Should Congress be of opinion that a discrimination can be made in their favour they will please to direct it.²

The committee, to whom were referred the papers respecting the allowance to be made to the representatives of the late Commissary General Joseph Trumbull, for services performed by him, report:

That the allowance proposed to be made to the representatives of Mr. Trumbull, of certain rates of commission, by a resolve of Congress of the 31 March, 1779, and which by a subsequent settlement would be 62,230 65/90 dollars, appears to be abundantly too large; unless by a construction of the said resolve from some words ~~not of its essence~~ therein which respect the depreciated State of Paper money, the amount should be limited agreeably to the then

¹ This motion, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 19, VI, folio 407. It is undated, but is filed with the report and Williamson's Motion on the same subject, and belongs to this period.

² This report is in the *Papers of the Continental Congress*, No. 149, II, folio 67. It was read on this day, the indorsement indicates, and "referred back to the Secretary at War to report a resolution making a proper provision for the memorialist and others in similar circumstances."

actual depreciation, which would reduce it to 5653 dollars in specie; in which case the allowance is apparently too small.

But your committee being now freed from the necessity of making the said resolve the basis of their determination, and at liberty to form their judgment upon the proper circumstances; and having considered the frugality with which the late Commissary General expended the public money, his great activity, zeal and abilities, in discharging the duties of his office, together with the importance of the trust, they propose the following resolution:

That in addition to the 21,992 75/90 dollars continental currency retained in the hands of the late commissary general Joseph Trumbull, out of the monies issued to him, there be a further allowance made to the representatives of said Joseph Trumbull of twelve thousand dollars, in full compensation for all services rendered by him as commissary general.¹

¹ This report, in the writing of George Clymer, is in the *Papers of the Continental Congress*, No. 19, VI, folio 71. It is undated, but according to the indorsement, was the report of Mr. [George] Clymer, Mr. [Jonathan] Jackson and Mr. [Hugh] Williamson, and was entered and read. It is marked "3rd report." According to Committee Book No. 191, it was delivered on October 28, and acted upon January 23, 1783.

The following, in the writing of Hugh Williamson, appears to be a draft of the 3rd report. It is undated and is in No. 31, folio 357:

The Committee to whom was referred the papers respecting an allowance to be made to the Representatives of the late Com^r. Genl. Jos. Trumbull for services performed by said Com^r. Report,

That the allowance proposed to be made to the Representatives of the late Commissary General Jos. Trumbull by a Resolve of Congress on the 31st of March 1779 appears not to be an adequate award for the Risques diligent and faithful services of said Com^r Trumbull. The allowance ~~to be made~~ was limited by certain Commissions of $\frac{1}{2}$ to $2\frac{1}{2}$ per ct. on money paid by the Commissary General and purchases made by him and the amount of those Commissions now appears to be 62,230 $\frac{5}{8}$ dls. This allowance was made and the money was ordered immediately to be paid to the Adm^t at a time, as the Resolve expresses, when the value of our Currency was greatly altered from what it had been. The Money was not paid from a necessary delay in settling his Accounts, and according to the scale of Depretiation it appears that the true value of 62,230 dls. payable on the 31st of March 1789 [1779] is ~~no~~ very little more than 5,653 dollars in specie.

That though it appears from sundry Accounts and Vouchers in ~~one of the public offices~~ that Commissary Trumbull has not made his Purchases or Contracts at any considerable private expence, yet considering the faithful and frugal manner in which he served the public for the space of 25 Months and the risque which attends the payment of large sums of money, your Committee are of opinion that the sum of dls. shall be paid to the Representatives of J. T. Esq. late Commissary Genl exclusive of 21,992 $\frac{7}{8}$ dls. ~~already paid~~ retained in his hands in full for all services done by said Com^r Genl

On this date, according to the indorsement, was read a petition of William Shattuck and Henry Evans, dated Philadelphia, October 26, 1782. It was assigned for October 30, and is in the *Papers of the Continental Congress*, No. 40, II, folio 345.

TUESDAY, OCTOBER 29, 1782

On the report of the committee, consisting of Mr. [Samuell] Osgood, Mr. [Ralph] Izard, Mr. [Theodorick] Bland, and Mr. [James] Duane, appointed to consider and report the most just and practicable means of reducing the expenditures of the United States:

Whereas by the resolutions of repealing all former resolutions respecting the quartermaster general's department, and establishing the pay and emoluments in that department, no allowance of rations is made to the officers employed therein, therefore,

Resolved, That the quartermaster general be allowed fifteen rations per day:

That the deputy quartermaster with the southern army be allowed twelve rations per day:

That all assistants in the quartermaster's department be allowed, each of them, two rations per day ~~including what they may be entitled to draw in the line of the army:~~

That the waggonmaster, commissary of forage for the main army, and the commissary of forage for the southern army, be each of them allowed five rations per day:

That the deputy waggonmaster with the southern army, be allowed four rations per day:

That the waggon conductors be each of them allowed a ration and a half per day:

That the directors of the artificers be allowed each of them three rations per day, and the sub-directors each of them two rations per day:

And that the foregoing rations shall be inclusive of what the several officers aforesaid may be entitled to draw in the line of the army.¹

On a motion made by the delegates of Maryland,

¹ This report, in the writing of Samuel Osgood, is in the *Papers of the Continental Congress*, No. 22, folio 169.

Resolved, That Congress do, in behalf of the United States, accept all the right, title, interest, jurisdiction, and claim of the State of New York, as ceded by and contained in the instrument of writing executed for that purpose by the agents of New York, dated the first March, 1781.¹

On the question to agree to this, the yeas and nays being required by Mr. [Daniel] Carroll,

<i>Massachusetts</i> ,			<i>Maryland</i> ,		
Mr. Osgood,	no	} *	Mr. Hanson,	ay	} ay
<i>Rhode Island</i> ,			Carroll,	ay	
Mr. Arnold,	ay	} ay	Hemsley,	ay	
Howell,	ay		<i>Virginia</i> ,		
<i>Connecticut</i> ,			Mr. Madison,	no	} no
Mr. Huntington,	ay	} ay	Bland,	no	
Dyer,	ay		<i>North Carolina</i> ,		
<i>New York</i> ,			Mr. Williamson,	ay	} div.
Mr. Duane,	ay	} ay	Blount,	no	
L'Hommedieu,	ay		<i>South Carolina</i> ,		
<i>New Jersey</i> ,			Mr. Rutledge,	no	} div.
Mr. Boudinot,	ay	} ay	Ramsay,	ay	
Witherspoon,	ay		Izard,	ay	
<i>Pennsylvania</i> ,			Gervais,	no	
Mr. Smith,	ay	} ay			
Clymer,	ay		<i>Delaware</i> ,		
<i>Delaware</i> ,			Mr. McKean,	ay	} ay
Mr. Dickinson,	ay		Dickinson,	ay	
Wharton,	ay		Wharton,	ay	

So it was resolved in the affirmative.²

¹ This resolution, in the writing of Daniel Carroll, is in the *Papers of the Continental Congress*, No. 36, I, folio 401. The vote is indorsed on the resolution.

² The following motion, in the writing of Eliphalet Dyer, is in the *Papers of the Continental Congress*, No. 36, I, folio 409. It is dated October, 1782:

[M^r Dyer's Motion Respecting the acceptance of New York cession.]

Provided nevertheless that in accepting the cession of the State of New York as aforesaid nothing therein shall be construed or understood to confirm or agree to the limitation or restriction of the boundaries of the said State of New York, but that the *remaining limits or boundaries of the State of New York* with respect to every other

WEDNESDAY, OCTOBER 30, 1782

A motion was made by Mr. [Hugh] Williamson, seconded by Mr. [Theodorick] Bland,

“That it be resolved, that nothing in the resolve passed yesterday, be understood to operate towards preventing the determination of any dispute that has arisen or may arise concerning territory, between the State of New York and any other state or states in the union, by the 9th Article of the Confederation, in the same manner as if this cession had not been made.”¹

A motion was made by Mr. [Thomas] McKean, seconded Mr. [David] Howell, that the motion be postponed.

And on the question for postponing, the yeas and nays being required by Mr. [Theodorick] Bland,

<i>Massachusetts,</i>			<i>New Jersey,</i>		
Mr. Osgood,	ay	} *	Mr. Boudinot,	ay	} div.
<i>Rhode Island,</i>			Witherspoon,	no	
Mr. Arnold,	ay	} ay	<i>Pennsylvania,</i>		
Howell,	ay		Mr. Smith,	ay	} ay
<i>Connecticut,</i>			Clymer,	ay	
Mr. Huntington,	ay	} ay	<i>Delaware,</i>		
Dyer,	ay		Mr. McKean,	ay	} div.
<i>New York,</i>			Dickinson,	no	
Mr. Duane,	ay	} ay			
L'Hommedieu,	ay				

State be considered as undecided and by no means to have or be construed to have any influence in any future decision or determination of the remaining limits of the State of New York.

On this day, according to the indorsement, was read a letter of October 25, from Lieutenant Colonel Cambray. It is in No. 78, VI, folio 151.

Also, a letter from General Washington, dated Head Quarters, October 25, reporting intelligence from New York. It is in No. 152, XI, folio 1.

Also, another letter from him of the same date enclosing copies of letters from Count de Vergennes in reference to Captain Asgill. It was referred to Mr. [John] Rutledge, Mr. [Samuel] Osgood, Mr. [Joseph] Montgomery, Mr. [Elias] Boudinot, Mr. [James] Duane. It is on folio 5.

¹ This motion, in the writing of Hugh Williamson, is in the *Papers of the Continental Congress*, No. 36, I, folio 411.

<i>Maryland,</i>			<i>South Carolina,</i>	
Mr. Hanson,	ay	} ay	Mr. Rutledge,	no
Carroll,	ay		Ramsay,	no
Hemsley,	ay		Izard,	no
<i>Virginia,</i>			Gervais,	no
Mr. Madison,	ay	} div.	<i>Georgia,</i>	
Bland,	no		Mr. N. W. Jones,	no
<i>North Carolina,</i>				*
Mr. Williamson,	no	} no		
Blount,	no			

So the question was lost.

On the question to agree to the main question, the yeas and nays being required by Mr. [Hugh] Williamson,

<i>Massachusetts,</i>			<i>Maryland,</i>	
Mr. Osgood,	no	} *	Mr. Hanson,	no
<i>Rhode Island,</i>			Carroll,	ay
Mr. Arnold,	no	} no	Hemsley,	ay
Howell,	no		<i>Virginia,</i>	
<i>Connecticut,</i>			Mr. Madison,	no
Mr. Huntington,	ay	} ay	Bland,	ay
Dyer,	ay		<i>North Carolina,</i>	
<i>New York,</i>			Mr. Williamson,	ay
Mr. Duane,	ay	} ay	Blount,	ay
L'Hommedieu,	ay		<i>South Carolina,</i>	
<i>New Jersey,</i>			Mr. Rutledge,	no
Mr. Boudinot,	ay	} ay	Ramsay,	ay
Witherspoon,	ay		Izard,	ay
<i>Pennsylvania,</i>			Gervais,	no
Smith,	no	} div.	<i>Georgia,</i>	
Clymer,	ay		Mr. N. W. Jones,	no
<i>Delaware,</i>				*
Mr. McKean,	ay	} ay		
Dickinson,	ay			

So the question was lost.

The Secretary at War, to whom was referred a letter of 25, from Lieutenant Colonel Cambray, having made report:

On motion of Mr. [John Lewis] Gervais, seconded by Mr. [James] Duane,

Resolved, That the Secretary at War inform Lieutenant-Colonel Cambray, that Congress entertain ~~the most favourable~~ a high opinion of his merit and military talents, and of his zeal and activity in the service of the United States; and that ~~the Secretary at War be directed to inform Lieutenant Colonel de Cambray that~~ he has leave of absence for a term not exceeding twelve months, ~~from the time of his embarkation to visit his family in France and that in case of his exchange he make every exertion to return at the opening of the next campaign.~~¹

On the report of a committee, consisting of Mr. [Theodorick] Bland, Mr. [Thomas] McKean, and Mr. [Philemon] Dickinson, to whom was referred a note from the Hon^{ble} the Minister of France, dated 28, respecting supplies of provisions sent to the enemy from New Jersey:

The Committee to whom were referred the Note of the Honorable the Chev. de la Luzerne Min^r Plenipo: of France of the 28th of October 1782, report that it is their opinion that a continuance of the flagitious clandestine commerce therein set forth between some of the Citizens of the State of Jersey and the Enemy cannot but be attended with the most destructive consequences to the operations of the allied Powers by invigorating those of the Common Enemy, and therefore call for every exertion to suppress it in the most speedy and effectual manner possible. In addition therefore to the steps already taken by the United States in Congress assembled and the measures already recommended to the several States in the Union by their Resolutions of and

Resolved, That a copy of the information be transmitted without delay to the executive of New Jersey, with a request that it be laid before the legislature of the said State; and that a copy be sent to the Commander in Chief, with directions to take speedy and effectual measures to suppress the said pernicious clandestine commerce.²

¹ This resolution, in the writing of John Lewis Gervais, is in the *Papers of the Continental Congress*, No. 36, I, folio 415. The Secretary at War's letter on which it was based is in No. 149, II, folio 113.

² This report, in the writing of Theodorick Bland, is in the *Papers of the Continental Congress*, No. 25, II, folio 137.

WAR OFFICE, *October 29, 1782.*

SIR,

I have before me my report to Congress on the memorial of Capt^s Schreiber which has been referred back with a direction to the Secretary at War to report a Resolution making a proper provision for the Memorialist (Captain Schreiber) and others in similar circumstances.

There are few, Sir, if any whose circumstances are so peculiar as those of Captain Schreiber; he is a deranged officer and has no farther expectations from the United States, his future hopes are built on military Service; he is therefore exceedingly anxious to leave America and try his fortune in Europe. Therefore to grant him full pay and rations untill exchanged would not avail him, as a detention may frustrate his views and embarrass him hereafter; to do more and promise a support thro life might be a bad precedent and involve us in future difficulties.

Though I am far from wishing that Congress would recede generally from their late resolutions, yet I consider this Case so very particular that I should be happy to see Captain Schreiber exchanged.

If Congress should not think proper to deviate from their general system, I cannot see but that the foreign deranged officers, who are detained here, have a just claim on the public for their rations and pay until they are exchanged, and that so much of their pay as will enable them to support themselves should be advanced.

The case of deranged Officers who are Citizens of America and who are at home with their families and who are attending to their domestic affairs is in my opinion quite different.

Should Congress continue their pay it will I suppose compensate them for all the evils they suffer by being Prisoners on Parole.

I wish the ideas of Congress on these observations and I will report resolves accordingly.¹

WAR OFFICE, *October 29, 1782.*

SIR,

In obedience to the Order of Congress I have consulted the Commander in chief on the report of a Committee relative to promotions and on a Motion of Mr. Rutledge on the same subject and beg leave to submit to the consideration of Congress the following mode of promotion from the rank of Colonels to that of Brigadiers:

¹ This report is in the *Papers of the Continental Congress*, No. 149, II, folio 73. According to the indorsement, it was read on this day, and referred to Mr. [Theodorick] Bland, Mr. [Samuel] Osgood and Mr. [Philemon] Dickinson.

That the United States shall compose three divisions, the Eastern, Middle and Southern; New Hampshire, Massachusetts, Rhode Island and Connecticut shall form the Eastern—New York, New Jersey, Pennsylvania, Delaware and Maryland the middle—Virginia, North Carolina, South Carolina and Georgia the Southern.

That in all such States where their Numbers of Troops in the field are sufficient to form one or more Brigades, the Brigadiers shall be appointed from the senior Colonels in the line of such States, and when Brigadiers shall be wanted to command Brigades within either of the divisions composed of the Troops of such States who have not individually numbers in the field sufficient to form a Brigade, the Brigadiers shall be appointed from the senior Colonels in such Brigades. Little was said respecting the appointment of Major Generals, but it seemed to be the general voice that they should be appointed from the senior Brigadiers excepting in cases of merit.¹

Ordered, That a letter of 29th October, 1782, from the Secretary at War, respecting an allowance to purchasing and issuing Commissaries in Southern Department be referred to the Superintendent of Finance.

Ordered, That so much of Lieut. Col. Cambray's letter as respects an advance of pay be referred to the Superintendent of Finance.²

¹ This report is in the *Papers of the Continental Congress*, No. 149, I, folio 651. A copy is on folio 657 and the letter of transmittal, also dated October 29, is on folio 649. The indorsement shows that it was read October 30, entered, and Thursday, November 7, assigned. A second indorsement is in No. 149, II, folio 83, and shows, as do the entries in Committee Books No. 186 and No. 191 that it was committed, on November 18, to Mr. [Daniel] Carroll, Mr. [Samuel] Osgood and Mr. [Richard] Peters, and on December 6, to Mr. [Daniel] Carroll, Mr. [Samuel] Osgood and Mr. [John Taylor] Gilman. The report of the first committee was delivered December 2 and debated and lost December 4; that of the second committee was delivered December 10 and passed December 12.

² These two orders were entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

On this day, according to the indorsement, a letter of October 29, from the Secretary of War, inclosing a state of the Invalid Regiment, was read. It was referred to Mr. [Theodorick] Bland, Mr. [Samuel] Osgood, Mr. [Philemon] Dickinson. It is in the *Papers of the Continental Congress*, No. 149, II, folio 77. See *post* December 19.

Also, a letter of October 30 from the Secretary at War, on the expectations of the officers of the army. It was referred, as shown by the indorsement and by Committee Book, No. 186, to Mr. [Daniel] Carroll, Mr. [Elias] Boudinot, Mr. [Theodorick] Bland; and on November 7 Mr. [Samuel] Osgood was appointed on the committee, in place of Mr. Boudinot. On November 20 such parts as relate to the pay of the army were referred to the Superintendent of Finance to report. The letter is in No. 149, II, folio 105. See *post* November 18.

[THURSDAY, OCTOBER 31, 1782.]

WAR OFFICE, *October 30, 1782.*

SIR,

On the memorial of Mr. Rees, referred to me, I can only observe that he was appointed by General Howe to act as Deputy Judge Advocate in Georgia, on the second of October, 1778, which was prior to any resolve of Congress authorising such an appointment; it should, therefore, have been considered as temporary, as had been the usage in the States, and he ought to have been reported when captured as a Citizen; but contrary thereto he was returned and gave his parole as a Deputy Judge Advocate, by which he is now held as a prisoner of war, and he does not consider himself exchanged with the Militia.

He has applied for pay, but I did not think myself authorised to issue a warrant in his favor under these circumstances, without the particular directions of Congress.¹

FRIDAY, NOVEMBER 1, 1782

The committee, consisting of Mr. [Theodorick] Bland, Mr. [Jonathan] Jackson and Mr. [David] Howell, appointed to make enquiry into the causes of the detention of goods purchased in Holland, having brought in a report:

The Committee to whom was refer'd the letters and reports of Lt. Col. Laurens to Congress, concerning his Mission to the Court of France, &c.—On the motion of Mr. Bland, together with the letter of Mr. Jackson of the 25th day of July, 1782, and an extract of a letter from Dr. Franklin of the day of 1782,

Beg leave to report,

¹ This report is in the *Papers of the Continental Congress*, No. 42, VI, folio 465. According to the indorsement, it was read October 31.

On October 31, according to the indorsement, was read a letter of October 30 from the Secretary at War, respecting lieutenant colonels commandant. It was referred to Mr. [Daniel] Carroll, Mr. [Elias] Boudinot, Mr. [Theodorick] Bland. It is in No. 149, II, folio 101.

Also, on October 31, according to entry in Committee Book No. 186, a letter, of October 30, from the Secretary at War, respecting a paymaster for the Virginia Line, was read, and referred back to the Secretary at War to report. This letter is in No. 149, II, folio 129.

That they have made strict Inquiry concerning the Loan and Donations obtained from the Court of France of that part of the Specie which was directed to be brought over, as also of the detention of the Clothing and other Stores purchased by Col. Laurens or his order, and the causes of a non-compliance with certain contracts entered into by the said Lt. Col. Laurens for the above purposes. Upon which Investigation and Enquiry it appears to the Com^{rs} that prior to the arrival of Lt. Col. Laurens in France and in consequence of duplicate Instructions and Commission which had been sent to our Minister Plenipo: at the Court of France to act in the absence of Lt. Col. Laurens who was appointed special Minister, The said Min: plenipo: had obtained from that Court a promise of a donation of six Million of Livres tournois which Sum was to have issued from the royal Treasury of France for the Use of the United States from time to time as it might be drawn for by Gen. Washington at distant periods. That on the arrival of Lt. Col. Laurens, it appears that special Minister took up the matter in a different view, and by repeated, strong and well timed memorials presented to the most Xian King our August Ally and each of his principal Ministers of State accompanied with a pathetic picture of our distresses, he obtained a promise from that Court that 4,000,000 of the 6,000,000 should be shipped in Specie for America in pursuance of the direction and wish of Congress; that two million should be retained to pay for the military Stores he was commissioned to apply for; that 4,000,000 more should be granted from the royal Treasury of France to pay the Bills of Exchange drawn on Dr. Franklin as they might become due; and that a Loan should be opened in Holland on Acco^t of the United States for Ten Million, which should be guaranteed by his most Christian Majesty, making in the whole 20,000,000 of Livres, which was all to issue from his royal Treasury for the use of the United States as will appear by the papers alluded to in the margin, which your com^{rs} beg leave may be read as far as they relate to this subject and considered as part of their report.

Notwithstanding the above arrangements and most prudent precautions taken by your special Minister Lt. Col. Laurens for carrying them into immediate Execution guarded by him with positive Instructions and accompanied with precise orders from the Director General of the Finances of France, y^e Com^{rs} find the measures taken for the shipment of one and a half of Livres were defeated by a positive Order from the Minister Plenipo: from the United States at the Court of Versailles in despite of every argument and effort and against

such a proceeding by Capt. Jackson acting under the above Orders of your special Minister without any other reason for so doing, but that it was money obtained thro' his the said Minister Plenipo's application, and that it was necessary he should have the disposal of it for supporting the credit of the United States in Europe, in paying the Bills which had been or might be drawn on him and complying with the contracts or debts which had been or would be incurred in France and Holland on Account of the United States altho' it appears from the settlement already referred to that there was a balance of four million two hundred fourteen thousand, eight hundred and ninety-one Livres exclusive of the one million and an half sent to Amsterdam to be ship'd and afterwards remitted to the said minister, or at his disposal.

How far Contracts or Engagements entered into by any of your Ministers in Europe will justify the application of Monies belonging to the United States to different purposes than those to which Congress have tho' proper to appropriate them, your Com^{tes} do not undertake to determine, altho' it does not appear to your Com^{tes} from an account or papers they have had access to that any such Contracts or Engagements subsisted at the Time the Money was remanded back to Paris, as could justify such a proceeding in the Minister plenipo: at the Court of Versailles in direct contravention of Arrangements taken between their special Minister Lt. Col. Laurens and the French Ministry as will appear by the papers already referred to, by which it appears the money was to be delivered to the Order of Col: Laurens, to be ship'd to America.

With respect to the Goods purchased in Holland by Col: Laurens's Order, your Com^{tes} beg leave to observe that your said special Min^r appears from the Preamble and Tenor of a Contract ent^d into between him and Commodore Gillon of South Carolina, to have been induced by the said Commodore Gillon to believe that the Vessel of which he had the Command in Holland was of sufficient Capacity to contain and bring over, and of force to defend a considerable quantity of Clothing and Stores for the use of the Army of the United States at the same time that it afforded a safe opportunity for importing the Money above mentioned. To accomplish these desirable purposes your special Minister aforesaid dispatched to Holland Capt. Wm. Jackson of the South Carolina line, with positive and direct Instructions, to superintend the purchases of the said Goods, to inspect their quality, to inform himself on the spot of the capacity of the Frigate *South Carolina*, to select the Goods stipulated to be delivered for use

of the United States by Commodore Gillon, which were to make a part of near fifty Thousand Pounds Sterling worth, which Col: Laurens appears by an Estimate delivered to M^r: de Neufville to have had an Intention of purchasing in Holland, provided the said frigate's capacity and ability to stow them was sufficient, with an Injunction not to purchase more Goods than the frigate above mentioned sh^d be found capable of containing.

Your Com^{ms} find however that notwithstanding these precautions taken and Injunctions given by your special Minister, and notwithstanding the delusive representations made to him of the capacity of the said frigate by Commodore Gillon, she was on further Examination found incapable of containing the whole purchases, whereby it became in the opinion of those concerned necessary that Transports sh^d be freighted to carry the Surplus. It does not appear that any strict Scrutiny had been made relative to the Capacity of the said frigate until all or the greatest part of the Goods were purchased and ready to be shipt. Your Com^{ms} have not been able to procure direct proof by whom the said Ships were taken up, but are inclined to believe from an Indemnification offered by Capt. Jackson, in which he was joined by a certain Mr. Searle, and from some arrangements made by the said Capt. Jackson, that the Goods were ship'd on board them at least with his (Capt. Jackson's) concurrence. Be this as it may, your Com^{ms} find that the Goods were on board the said freighted Ships and arrangements taken for the ships sailing under convoy of the said *South Carolina* Frigate when Commodore Gillon demanded a Completion on the part of Capt. Jackson, with that part of his Contract which entitled him to receive Bills of Exchange drawn by Mr. J. Adams on Wm. Franklin Min^r: Plenipo: to the Amount of Ten Thousand Pounds Sterling in Consideration of Goods to that amount which it appears had been delivered to him by the said Commodore Gillon as specified in the Contract; which demand being refused, the said Commodore found it necessary to sail out of the port to avoid being stop'd by his Creditors on whose account, as the Contract sets forth, he had among other considerations entered into the said Contract. It also appears to your Com^{ms} from sundry papers that the said Commodore Gillon remained twelve days standing off and on at the Mouth of the Texel in Expectation that the agreement respecting the Bills w^d be complied with, and that the vessels freighted, as above mentioned, w^d come out to go under his convoy. In both which Expectations he was disappointed, until every prudential consideration rendered it expedient to save his vessel that he should

proceed on his voyage, which he did accordingly on the 19th of August. Nor does it appear to your Com^{rs} that the said Commodore received the Bills as specified in the Contract until about that time, altho' the Goods had been delivered over by him and were in the possession of Capt. Jackson or at his order from the 14th of May until the ship left the Texel, subsequent to which it appears that the Balance of the ten Thousand Pounds Sterl^s in Bills of Exchange drawn on the Min^r Plenipo: at the Court of Versailles, by Capt. Jackson, was delivered to the said Commodore Gillon, not as appears in compliance with the Terms of the original Contract, but as an inducement for the said Commodore to sign the Charter partys of the Vessels taken up as Transports above mentioned, which appears to have been rendered necessary and an indispensable requisite to the departure of the said Vessels, for those concerned in them, absolutely refusing to let them sail without such signatures;—for the proof this your Com^{rs} beg leave to refer Congress to Mr. De Neufvilles as in the Margin.

Your Com^{rs} are of opinion that in his Exertions to procure the Shipment of the Specie and in hastening and expediting the purchase of the Goods, and disposing them to be brought to America, no person co^d have acted with greater Zeal and Activity than Capt. Jackson as appears by several papers already referr'd to, and the Testimony of our Min^r Plenipo: at Versailles and the Hague and your special Min^r, but they cann^t refrain from saying that in their opinion some ill founded suggestions (which he acknowledges to have received in Paris, and which by a Letter of his dated Corunna, Sept. 26, 1781, appear to have come from the Min^r Plenipo: to the Court of Versailles from these States) had caused a want of confidence in Commodore Gillon's honor as well as honest Intentions and occasioned the said Capt. Jackson to conceive it to be his duty to withhold from him the stipulated Sum in the Contract and of course may with reason and propriety be assigned as the remote cause of the detention of the Money and Goods which wo^d otherwise have come out to America—the Goods if not in the Ship *South Carolina* at least under the convoy of that Ship.

Your Com^{rs} are of Opinion that Commodore Gillon has on his part been wanting in a fair and candid representation to Col. Laurens of the State and Cases of his Ship prior to the signing of the Contract, and altho' they do not conceive him guilty of any specific Breach of the said Contract, which wo^d subject him to damages, yet they cannot acquit him of having (in their opinion) given a delusive account of the said Vessel to the aforesaid special Min^r for the purpose, as it appears

to your Com^{rs}, of Obtaining Money to extricate himself from the difficulties in which he was involved.

Should Congress approve the report of their Com^{rs}, In Order that future Appropriations of the Monies of the United States may be prevented, other than such as are constitutionally directed by Congress, the Com^{rs} beg leave to propose the following Resolution:

Whereas, one Million and an half of Livres tournois, part of Monies obtained from the Co^t of France for the United States by the Hon^{ble} Col: Laurens, their special Min^r to that Court, having been by him directed to be Ship'd from Amsterdam in compliance with Orders he had received from Congress;

And Whereas, in express contravention of the said Direction, the said Specie after being sent to Amsterdam to be ship'd, was without the orders or Sanction of Congress (for so doing) remanded by the Min^r Plenipo: at the Court of Versailles, back to Paris for the purpose, as he alledges, of applying it to other Uses;

Therefore, resolved, That the said Min^r be informed that Congress highly disapprove his Conduct in so doing, as well on account of the Embarrassment, into which such a Proceeding must throw the finances of these States, if practised by any person whatsoever, without a proper authority derived from Congress for so doing, as on Account of such a Measure being an unconstitutional Appropriation of the Money of these United States, which can be made only by at least nine States in Congress assembled.¹

On motion of the delegates of South Carolina,

Resolved, That so much of the report as respects Commodore Gillon be dismissed: that the several papers mentioned therein be referred to the Superintendent of finance, and if it shall appear to him that the United States have good cause of action against Commodore Gillon, in behalf of the State of South Carolina for damages on the subject matter of the report, that the Superintendent of finance take measures for having such dispute between the United States and the said State settled according to equity and good conscience, by arbitrators to be appointed by the governor of the said State and the Superintendent of finance, the delegates of the

¹ This report, in the writing of a clerk, is in the *Papers of the Continental Congress*, No. 19, III, folio 449.

said State engaging that it will submit to such a mode of determination.¹

On a report from the Secretary at War,

Whereas several paymasters of the Virginia line are now prisoners of war, and from their dispersed situations are incapable of attending to settle the accounts of their respective regiments; and Lieutenant Charles Stackly having been appointed by a meeting of the Virginia officers to receive their warrants for the moneys advanced on account of pay and subsistence:

Resolved, That the Secretary at War is empowered to issue his warrants, on account of the officers of the Virginia line, for pay and rations, in favour of the said Lieutenant Charles Stackly, as paymaster to the line, until the commanding officer thereof shall report that it is organized into regiments, and that the several paymasters are acting.²

Ordered, That a report of a Committee on a letter of August 2d from the Superintendent of Finance respecting the 4th Class of the United States Lottery be referred to the Superintendent of Finance to report.³

SATURDAY, NOVEMBER 2, 1782

The committee, consisting of Mr. [James] Duane, Mr. [David] Ramsay and Mr. [Samuel] Wharton, to whom was referred a letter of 1, from the Secretary at War, report,

That they have had a conference with the two deputies of the Catawba nation of Indians: that their mission respects certain tracts of lands reserved for their use in the State of

¹ This motion, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 36, I, folio 417.

² This report is in the *Papers of the Continental Congress*, No. 149, II, folio 133.

³ This order was entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

According to Committee Book No. 186, a "report of the Grand Committee on a memorial of the General Assembly of Pennsylvania, relative to payment of interest, &c.", was on this day referred to Mr. [Daniel] Carroll, Mr. [Thomas] McKean and Mr. [David] Howell. See *ante*, August 30, and *post*, November 12.

South Carolina, which they wish may be so secured to their tribe as not to be intruded into by force, nor alienated even with their own consent; Whereupon,

Resolved, That it be recommended to the legislature of the State of South Carolina, to ~~make the Provision requested by the said Tribe or~~ take such measures for the satisfaction and security of the said tribe as the said legislature shall in their wisdom think fit.

Ordered, That in consideration of the fidelity of the said tribe in the cause of the United States, the Secretary at War make the said two deputies presents, not exceeding the value of two hundred dollars.¹

On motion of Mr. [James] Duane, seconded by Mr. [John] Witherspoon,

Resolved, That the several matters now before Congress be referred over and recommended to the attention of the United States in Congress assembled, to meet at this place on Monday next.

UNITED STATES IN CONGRESS ASSEMBLED.

MONDAY, NOVEMBER 4, 1782

The following members attended, from

New Hampshire,

Mr. John Taylor Gilman,
Phillips White,

Massachusetts,

Mr. Samuel Osgood,

Rhode Island,

Mr. Jonathan Arnold,
David Howell,

Connecticut,

Mr. Benjamin Huntington,
Eliphalet Dyer,

New York,

Mr. James Duane,
Ezra L'Homedieu,

New Jersey,

Mr. Elias Boudinot,
John Witherspoon,

Pennsylvania,

Mr. Thomas Smith,
George Clymer,
Henry Wynkoop,

¹ This report, in the writing of James Duane, is in the *Papers of the Continental Congress*, No. 27, folio 199. The Secretary at War's letter of November 1 is in No. 149, II, folio 121.

Delaware,

Mr. Thomas McKean,
Samuel Wharton,

Maryland,

Mr. John Hanson,
Daniel Carroll,
William Hemsley,

Virginia,

Mr. James Madison,
Theodorick Bland,

North Carolina,

Mr. Abner Nash,
Hugh Williamson,
William Blount,

South Carolina,

Mr. John Rutledge,
Ralph Izard,
David Ramsay,
John Lewis Gervais.

Their credentials being read, the states proceeded to the election of a President; and the ballots being taken, the hon. Elias Boudinot was elected.

At a General Assembly of the Governor and Company of the State of Connecticut, holden at Hartford in said State: On the [SEAL] second Thursday of October, in the year of Our Lord One thousand, Seven hundred, and eighty two.

Resolved by this Assembly, that the Hon^{ble} Eliphalet Dyer Esq^r be and He hereby is appointed one of the Delegates to represent this State in the Congress of the United States of America for the year ensuing, to commence on the first Monday of November next, with the same powers, authorities and priviledges as the other Delegates of this State are vested with, who were elected in May last.

A true Copy of Record

Examined

By GEORGE WYLLYS *Secret^y*

STATE OF NEW }
HAMPSHIRE } IN THE HOUSE OF REPRESENTATIVES *Sept^r 14th 1782*

Voted, that the Honorable John Taylor Gilman Esq be and he hereby is appointed a Delegate to represent this State in the Continental Congress for the term of one year from this date unless sooner relieved or recalled by the General Assembly of this State with all the Powers and Priviledges which the other Delegates from this State have heretofore had and enjoyed agreeable to the Confederation of the United States

Sent up for Concurrence

JOHN LANGDON *Speaker*

In Council the same day read and concurred

J PEARSON *D Sec^y*

Copy Exam^d

by J. PEARSON *D Sec^y*

STATE OF NEW }
 HAMPSHIRE } IN THE HOUSE OF REPRESENTATIVES *Sept 13th 1782*

Voted, that the Honorable Phillips White Esq be and he hereby is appointed a Delegate to represent this State in the Continental Congress for the term of one Year from this date unless sooner relieved or recalled by the General Assembly of this State with all the Powers and Priviledges which other Delegates from this State have heretofore had and enjoyed agreeable to the Confederation of the United States

Sent up for Concurrence

JOHN LANGDON *Speaker*

In Council the same day read & concurred

E THOMPSON *Sec^y*

Copy Exam^d

by J. PEARSON *D Sec^y*

COUNCIL CHAMBER *Boston June 7th 1782*

SIR,

I am directed by the Honble Gen^l Court to Notify your honors being Elected Yesterday by joint Balot of the Senate and House of Representatives as a Delegate from this Commonwealth to the Congress of the United States to serve in Congress for One year to Commence on the first Monday in Nov^r next & You'l please to lay your Answer on the receipt of this Notification before the General Court.

I am with Every Sentiment of Esteem

Your honors

Very hum: Serv^t

JOHN AVERY *Sec^y*

Hon. SAML OSGOOD Esq^r

VIRGINIA, to wit,

In General Assembly

SATURDAY the 15th June 1782.

Resolved that James Madison j^r, Edmund Randolph, Joseph Jones, Theodorick Bland j^r, and Arthur Lee Esquires be appointed Delegates to represent this Commonwealth in Congress for one Year from the first Monday in November next.

ARCHIBALD CARY *S. S.*

JOHN TYLER *S. H. D.¹*

¹ According to the record, the credentials printed here were the only ones read on November 4. The originals are in the *Papers of the Continental Congress, Credentials of Delegates*. They were entered in No. 179, *Record of Credentials*, and not in the Journal.

On motion of Mr. [James] Duane, seconded by Mr. [Ralph] Izard,

Resolved, That the thanks of Congress be given to the Hon. John Hanson, late President of Congress, in testimony of their approbation of his conduct in the chair, and in the execution of public business.

[Motion of Mr. Hugh Williamson respecting North Carolina Troops.]

Whereas it is represented that the State of North Carolina was zealously pressed by the Commander in Chief in the Southern Department at the last sitting of the General Assembly in May last to send immediate support to the army under his command whose situation was critical and dangerous, and that not being able with the necessary dispatch to raise a sufficient number of Troops for three years or during the war, they caused 1500 men to be immediately draughted for 18 months.

And whereas the Southern States may be endangered while the Enemy continue in that quarter by a sudden diminution of our Army,

Resolved, That the Commander of the Southern Army be instructed to retain in the public service so many of the late 18 months drafts of the State of North Carolina as he shall think the public safety may require, and that a proportionate number of officers shall be continued in full pay for the command of those Troops while they are in the field, the resolution of the 7th of August notwithstanding.¹

On the report of the Secretary at War, to whom was referred a motion of Mr. (Hugh) Williamson, respecting the North Carolina troops:

WAR OFFICE, *November 1st, 1782.*

SIR,

I have read with attention the report of a Committee appointed to Consider whether the Officers and troops belonging to the Lines of some States in the Union may not be affected by the resolves of the 7th of August respecting the Army, so as to injure the public service.

¹ This motion, in the writing of Hugh Williamson, is in the *Papers of the Continental Congress*, No. 36, I, folio 419. It is undated, but the indorsement refers to the resolution of November 4 on the subject, and a comparison of it with the report of the Secretary at War and the resolution that was adopted indicates that this was the "report" that was read October 28, and referred to the Secretary at War. See *ante*, October 9.

It appears to me that the draught of a resolve which the Committee have reported will if passed make a necessary and proper provision, and that it will not be productive of any ill consequences.

I beg leave however to inquire whether the resolve would not be better understood if the following words were added—

*And then retire on the same principles or emoluments, on which they would have retired had not the operation of the said resolve been suspended.*¹

Resolved, That the commander of the southern army be instructed to retain, in the public service, so many of the late eighteen months' drafts, of the State of North Carolina, as he shall think the public safety may require; and that a proportionate number of officers shall be continued in full pay, for the command of those troops, while they are in the field, the resolution of the 7th of August, notwithstanding; and that they then retire on the same principles or emoluments on which they would have retired had not the operation of the said resolve been suspended.²

TUESDAY, NOVEMBER 5, 1782

On motion of Mr. [David] Howell, seconded by Mr. [Samuel] Osgood,

Resolved, That all committees appointed by the last Congress, and having business before them, be, and they are hereby, authorised to proceed in the same, and that they make report as soon as may be.

The credentials of the delegates of New Jersey, were read; by which it appears, that at a joint meeting of the council and assembly at Trenton, on the 30 October, 1782, the Hon. E[lias] Boudinot, A[braham] Clark, J[onathan] Elmer, S[ilas] Condict, and Fred[erick] Frelinghuysen, were elected, and any two or more of them empowered to represent and

¹ This report is in the *Papers of the Continental Congress*, No. 149, II, folio 125.

² On this day, according to the indorsement; a letter from General Washington, dated Head Quarters, Newburgh, October 30, was read. It is in the *Papers of the Continental Congress*, No. 152, XI, folio 17.

vote in behalf of that State in the Congress of the United States of America, from the 5 of November, 1782, to the 5 November, 1783, unless a new appointment shall sooner take place.

NEW JERSEY

Trenton October 30th 1782.

The Council & Assembly proceeded to the election of five Delegates to represent the said State in Congress when

The hon^{ble}: Elias Boudinot

Abraham Clark

Jonathan Elmer

Silas Condict and

Frederick Frelinghuysen Esq^{re}

were duly elected.

Resolved therefore that the said Elias Boudinot, Abraham Clark, Jonathan Elmer, Silas Condict & Frederick Frelinghuysen Esq^{re} or any two or more of them be empowered to represent & vote in behalf of this State in the Congress of the United States of North America from the fifth day of November next, until the fifth day of November in the year of our Lord one thousand seven hundred & eighty three, unless a new appointment shall sooner take place.

It is nevertheless expected that three of the Delegates do constantly attend in Congress unless prevented by sickness or other accident.

By order of Joint Meeting

JOHN COX *Chairman.*¹

Reconsidered. { On the report of a committee, consisting of Mr. [Theodorick] Bland, Mr. [Samuel] Osgood and Mr. [Philemon] Dickinson, to whom were referred a report of the Secretary at War [of the 29th of October] on the case of Captain Schreiber and a memorial of the said Captain Schreiber:
Resolved, That the Commander in Chief be authorised to obtain the exchange of Captain Schreiber, late of the corps of Engineers, and Captain Second, late of Pulaski's corps, the resolution of the 16 day of October last notwithstanding, and that they have leave of absence.

¹ The original is in the *Papers of the Continental Congress, New Jersey, Credentials of Delegates*. It was entered in No. 179, *Record of Credentials*, and not in the Journal.

~~Your Committee having considered the paragraph of the said report relative to officers prisoners of war who are citizens of the United States and who have been deranged in pursuance of the resolutions of the 3d and 21st day of October, 1780, and~~
 Struck out. ~~7th day of August last are of opinion that the pay of such officers should continue until they are exchanged but that their rations and other emoluments cease from the time that their derangement respectively took place except where such officers shall be restrained within the lines of the enemy.~~

~~Resolved, That all foreign officers while in captivity be entitled to draw full pay and subsistence (notwithstanding~~
 Struck out. ~~they shall have been deranged by any past or future resolution of Congress) until exchanged.~~

The committee having considered the report of the Secretary at War respecting the invalid regiment report,

Ordered, That the Secretary at War lay before Congress, as soon as may be, a particular state of the invalid corps.¹

On the report of a committee, consisting of Mr. [Joseph] Montgomery, Mr. [Theodorick] Bland, Mr. [Daniel] Carroll, Mr. [Eliphalet] Dyer, and Mr. [John] Witherspoon, to whom were referred a letter of the 16 September last, from Governor Clinton, a deposition of Joel Bigelow, and a memorial of Charles Phelps, with sundry papers therein enclosed and referred to:

Congress took into consideration the report of the committee, consisting of Mr. [George] Clymer, Mr. [Daniel] Carroll, Mr. [Abraham] Clark, Mr. [Samuel] Livermore, and Mr. [Richard] Law, as entered on the journal of the 17 of April last; and the resolution proposed by this committee being read and debated,

¹ This report, in the writing of a clerk, is in the *Papers of the Continental Congress*. No. 19, V, folio 295.

The following motion, in the writing of Samuel Osgood, and undated, is in No. 36, IV, folio 283:

Resolved, That the ~~Secretary at War~~ Commander in Chief be and hereby is empowered to exchange Capt. Scriber and Capt. Segond two foreign officers deranged from the Service of the United States.

That it be referred to the Secretary at War who is directed to consult the Commander in Chief and take order if deemed expedient.

A motion was made by Mr. [David] Howell, seconded by Mr. [Eliphalet] Dyer, to postpone the consideration of the resolution proposed by the committee, in order to consider the following proposition:

That the preliminary required of the people, inhabiting the territory called Vermont, by a resolve of August 20, 1781, as indispensably necessary to the recognition of their independence, has been complied with on their part.

A division was called for, and on the question to postpone the consideration of the resolution proposed by the committee, and the yeas and nays being required by Mr. [James] Duane,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	ay	} ay	Mr. McKean,	ay	} ay
White,	ay		Wharton,	ay	
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Osgood,	ay	} *	Mr. Carroll,	ay	} div.
<i>Rhode Island,</i>			Hemsley,	no	
Mr. Arnold,	ay	} ay	<i>Virginia,</i>		
Howell,	ay		Mr. Madison,	no	} div.
<i>Connecticut,</i>			Bland,	ay	
Mr. Huntington,	ay	} ay	<i>North Carolina,</i>		
Dyer,	ay		Mr. Nash,	ay	} ay
<i>New York,</i>			Blount,	ay	
Mr. Duane,	no	} no	<i>South Carolina,</i>		
L'Hommedieu,	no		Mr. Rutledge,	ay	} ay
<i>New Jersey,</i>			Izard,	ay	
Mr. Boudinot,	no	} *	Gervais,	ay	
<i>Pennsylvania,</i>					
Mr. Smith,	ay	} ay			
Wynkoop,	ay				

So it was resolved in the affirmative.

On motion of Mr. [Samuel] Osgood, seconded by Mr. Madison [William] Blount,

Resolved, That the resolution passed this morning respecting Captains Schreiber and Second be reconsidered.

THURSDAY, NOVEMBER 7, 1782

Congress again took into consideration the Resolution respecting Captains Schreiber and Second, and on motion of Mr. [Daniel] Carroll, seconded by Mr. [James] Madison,

Resolved, That the same be and hereby is repealed.

On the report of the committee, consisting of Mr. [John] Rutledge, Mr. [Samuel] Osgood, Mr. [Joseph] Montgomery, Mr. [Elias] Boudinot, and Mr. [James] Duane, to whom were referred the letter of 19 August from the Commander in Chief, the report of a committee thereon, and motions of Mr. [Hugh] Williamson and Mr. [John] Rutledge relative thereto, and also another letter of 25 October, from the Commander in Chief, with a copy of a letter to him from the Count de Vergennes, dated 29 July last, interceding for Captain Asgill:

Resolved, That the Commander in Chief be, and he is hereby directed to set Captain Asgill at liberty.¹

The Committee, consisting of M^r [Daniel], Carroll, M^r [Elias] Boudinot and M^r [Theodorick] Bland to whom was referred the letter of the Secretary at War, 30th [October], 1782,

Report, that the letter from the Lieut. Col. Commandants of the 23 Oct., 1782, be referred to the Secretary at War.²

The Committee of the Week [Mr. Abner Nash, Mr. Phillips White, Mr. Samuel Wharton] report, That the letter of Thomas Farrell late Field Commissary of Military Stores, praying to have his accounts settled and the balance to be paid him, be referred to the Superintendent of Finance.³

¹ This report, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 19, I, folio 183.

² This report, in the writing of Daniel Carroll, is in the *Papers of the Continental Congress*, No. 27, folio 201. The indorsement states that it was passed on this day.

³ This report, in the writing of Samuel Wharton, is in the *Papers of the Continental Congress*, No. 32, folio 411. The indorsement states that it was passed this day.

On this day, according to the indorsement, was read a letter of November 6, from John Hanson. It is in No. 78, XII, folio 253.

FRIDAY, NOVEMBER 8, 1782

On motion of Mr. [James] Madison, seconded by Mr. [Eliphalet] Dyer,

~~On mature deliberation on all the papers which had been referred to the Committee respecting the murder of Capt. Huddy, the British officer allotted as the subject of retaliation for the murder, and to the trial of Lippencot as the perpetrator thereof. It is deemed expedient and accordingly resolved that the Commander in Chief be directed to set at liberty the said British officer.~~

Resolved, That the Commander in Chief be instructed to call, in the most pointed terms, on the British commander at New York, to fulfil his engagement contained in his letter of the 13 day of August last, "to make further inquisition into ~~this criminal transaction~~ the murder of Captain Huddy, and to pursue it with all the effect which a due regard to justice will admit." ~~so that the guilty person may be delivered up to punishment~~¹

A motion was made by Mr. [Thomas] McKean, seconded by Mr. [James] Duane, in the words following:

"To prevent any misconstruction which might arise from the preceding resolutions of Congress:

"Be it declared, and it is hereby declared, that the Commander in Chief or the commander ~~in the Southern army~~ of a separate army, is, in virtue of the powers vested in them respectively, fully authorised and empowered, whenever the enemy shall commit any act of cruelty or violence con-

¹ This motion, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 36, I, folio 427. The following, in the writing of Charles Thomson, is on folio 423, and is undated:

Whereas Sir Guy Carleton in his letter of 13 Augt. last to his Excellency Gen^l Washington has declared that "to shew his thorough disapprobation of the execution of Huddy he has given orders to the Judge Advocate to make further inquisition and to collect evidence for the prosecution of such other persons, as may appear to have been criminal in this transaction," And has further declared that "he means to prosecute this matter with all the effect which a due regard to justice will admit," concluding his letter with an assurance of his most hearty concurrence in every measure for introducing on every occasion as great a share of tenderness and humanity as can possibly be exercised in a state of hostility.

trary to the laws or usage of war, ~~on the citizens of these states,~~ to demand adequate satisfaction for the same, and in case such satisfaction shall not be given in a reasonable or limited time, or shall be refused or evaded under any pretence whatever, to cause suitable retaliation to be forthwith made, and the United States in Congress assembled will support them in such measures.”¹

A motion was made by Mr. [David] Howell, seconded by Mr. [Phillips] White, to postpone the consideration of the motion.

And on the question for postponing, the yeas and nays being required by Mr. [William] Blount,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	ay	} ay	Mr. McKean,	no	} no
White,	ay		Wharton,	no	
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Osgood,	no	} *	Mr. Carroll,	no	} no
<i>Rhode Island,</i>			Hemsley,	no	
Mr. Arnold,	no	} div.	<i>Virginia,</i>		
Howell,	ay		Mr. Madison,	no	} no
<i>Connecticut,</i>			Bland,	no	
Mr. Dyer,	no	} *	<i>North Carolina,</i>		
<i>New York,</i>			Mr. Williamson,	no	} no
Mr. Duane,	no	} no	Blount,	no	
L'Hommedieu,	no			<i>South Carolina,</i>	
<i>New Jersey,</i>			Mr. Rutledge,	no	} no
Mr. Boudinot,	no	} *	Izard,	no	
<i>Pennsylvania,</i>			Mr. Smith,	no	
Mr. Smith,	no	} no	Clymer,	ay	
Clymer,	ay		Wynkoop,	no	
Wynkoop,	no				

So it passed in the negative.

A motion was then made by Mr. ~~Arnold~~ [David] Howell, seconded by Mr. [James] Madison, to strike out the preamble.

¹ This motion, in the writing of Charles Thomson, is in the *Papers of the Continental Congress*, No. 36, I, folio 425.

And on the question, shall it stand? the yeas and nays being required by Mr. [Hugh] Williamson,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	ay	} ay	Mr. McKean,	ay	} div.
White,	ay		Wharton,	no	
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Osgood,	ay	} *	Mr. Carroll,	ay	} ay
<i>Rhode Island,</i>			Hemsley,	ay	
Mr. Arnold,	no	} no	<i>Virginia,</i>		
Howell,	no		Mr. Madison,	no	} div.
<i>Connecticut,</i>			Bland,	ay	
Mr. Dyer,	ay	} *	<i>North Carolina,</i>		
<i>New York,</i>			Mr. Williamson,	ay	} ay
Mr. Duane,	ay	} ay	Blount,	ay	
L'Hommedieu,	ay		<i>South Carolina,</i>		
<i>New Jersey,</i>			Mr. Rutledge,	ay	} ay
Mr. Boudinot,	ay	} *	Izard,	ay	
<i>Pennsylvania,</i>				Gervais,	ay
Mr. Smith,	ay	} ay			
Clymer,	ay				
Wynkoop,	ay				

So the question being lost, the preamble was struck out.

A motion was made by Mr. [Thomas] McKean, seconded by Mr. [James] Duane, to introduce the declaration with the following preamble:

To prevent any misconstruction which may arise from the resolution directing Captain Asgill to be set at liberty.

And on the question to agree thereto, the yeas and nays being required by Mr. [Thomas] Smith,

<i>New Hampshire,</i>			<i>Connecticut,</i>		
Mr. Gilman,	ay	} ay	Mr. Dyer,	ay	} *
White,	ay		<i>New York,</i>		
<i>Massachusetts,</i>			Mr. Duane,	ay	} ay
Mr. Osgood,	ay	} *	L'Hommedieu,	ay	
<i>Rhode Island,</i>				<i>New Jersey,</i>	
Mr. Arnold,	no	} no	Mr. Boudinot,	ay	} *
Howell,	no				

<i>Pennsylvania,</i>			<i>Virginia,</i>		
Mr. Smith,	ay	}	Mr. Madison,	no	} div.
Clymer,	ay		Bland,	ay	
Wynkoop,	ay		<i>North Carolina,</i>	Mr. Williamson,	ay
<i>Delaware,</i>			Blount,	ay	
Mr. McKean,	ay	} ay.	<i>South Carolina,</i>	Mr. Rutledge,	ay
Wharton,	ay			Izard,	ay
<i>Maryland,</i>			Gervais,	ay	
Mr. Carroll,	ay	} ay			
Hemsley,	ay				

So it was resolved in the affirmative.

On the question to agree to the motion as amended, the yeas and nays being required by Mr. [William] Blount,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	ay	} div.	Mr. McKean,	ay	} ay
White,	no		Wharton,	ay	
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Osgood,	ay	} *	Mr. Carroll,	ay	} ay
<i>Rhode Island,</i>				Hemsley,	
Mr. Arnold,	no	} div.	<i>Virginia,</i>		
Howell,	ay		Mr. Madison,	ay	} ay
<i>Connecticut,</i>			Bland,	ay	
Mr. Dyer,	ay	} *	<i>North Carolina,</i>		
<i>New York,</i>				Mr. Williamson,	ay
Mr. Duane,	ay	} ay	Blount,	ay	
L'Hommedieu,	ay		<i>South Carolina,</i>	Mr. Rutledge,	ay
<i>New Jersey,</i>			Izard,	ay	
Mr. Boudinot,	ay	} *	Gervais,	ay	
<i>Pennsylvania,</i>					
Mr. Smith,	ay	} ay			
Clymer,	ay				
Wynkoop,	ay				

So it was resolved in the affirmative, as follows:

To prevent any misconstruction which may arise from the resolution directing Captain Asgill to be set at liberty, be it declared, and it is hereby declared, that the Commander in Chief, or the commander of a separate army, is, in virtue of the powers vested in them respectively, fully authorised and

empowered, whenever the enemy shall commit any act of cruelty or violence contrary to the laws or usage of war, to demand adequate satisfaction for the same; and in case such satisfaction shall not be given in a reasonable or limited time, or shall be refused or evaded under any pretence whatever, to cause suitable retaliation to be forthwith made; and the United States in Congress assembled will support them in such measures.

Motion of Mr [John] Rutledge, seconded by Mr [William] Blount, after "empowered" to insert "and they are hereby directed". Passed in the negative Nov^r 8, 1782.¹

Motion of Mr [Hugh] Williamson, seconded by Mr [David] Howell, That the entry of Mr Williamson's motion of 28th Oct^r last with the proceedings thereon be published in due course in the printed journals of that month.

Question put, was lost. 4 ayes, 4 noes, one divided.²

TUESDAY, NOVEMBER 12, 1782

On motion of Mr. [James] Madison, seconded by Mr. [Theodorick] Bland,

Resolved, That the appointment of Thomas Jefferson, Esquire, as a minister plenipotentiary for negotiating peace, made on the fifteenth day of June, 1781, be and the same is hereby renewed, and that on his acceptance thereof he be invested with all the powers and be subject to all the instructions which have been or may be issued by Congress to the

¹ This motion, in the writing of Charles Thomson, is in the *Papers of the Continental Congress*, No. 36, I, folio 421. On the same sheet, Thomson has made a separate entry of the four votes taken on this day.

² This motion, in the writing of Charles Thomson, is in the *Papers of the Continental Congress*, No. 36, I, folio 413. It was made this day, as the indorsement indicates.

On this day, according to the indorsement, a memorial and petition of Charles Phelps, dated November 6, 1782, in behalf of the people oppressed by the authorities of Vermont, was read and referred to Mr. [John] Rutledge, Mr. [Samuel] Osgood and Mr. [David] Howell. It is in No. 40, II, folio 349.

Also, a letter from General Washington dated Head Quarters, November 1, transmitting a copy of a letter from Sir Guy Carleton, was read. It is in No. 152, XI, folio 21.

ministers plenipotentiary for negotiating peace in the same manner as if his original appointment had taken effect.¹

On the report of the committee, consisting of Mr. [Samuel] Osgood, Mr. [Ralph] Izard, Mr. [Theodorick] Bland and Mr. [James] Duane, appointed to consider and report the most just and practicable means of reducing the expenditures of the United States; and to whom was referred a report of the Secretary at War, respecting Colonel Humphreys:

Resolved, That a commission of lieutenant colonel issue to David Humphreys, one of the aids-de-camp to the Commander in Chief, to bear date from the 23 of June, 1780.

That as a reference has been made to the Commander in Chief respecting rules for promotion for the General Officers in the Army, The Committee are of opinion that any report from them upon General Hazen's and Colonel Van Schaick's letters would be premature, and therefore recommend the following resolution:

Passed. That the Committee appointed to Consider the letters of General Hazen and Col. Van Schaick be discharged from that service.

Whereas no ~~established pay and emoluments have been made~~ provision has been made by Congress for the geographers to the armies of the United States; therefore,

Resolved, That the geographer to the main army, and the geographer to the southern department, be each of them allowed sixty dollars per month, three rations per day, forage for two saddle horses, one two-horse covered waggon, six dollars and two-thirds of a dollar per month for a servant, for whom they shall be entitled to draw one ration per day, and the cloathing allowed to a private soldier.

That the assistant geographers, if such officers shall be judged necessary by the Commander in Chief, be allowed

¹ This resolution, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 36, I, folio 431. It was also entered in the manuscript Secret Journal, Foreign Affairs, and in Secret Journal, No. 4, page 195.

thirty dollars per month, one ration per day, and forage for one saddle horse.

That when chain-bearers shall be employed, not being soldiers, they shall each be allowed half a dollar per day.¹

That the Committee appointed to consider the letter from the Secretary of War, of the 24th of June enclosing a letter from General Washington and Major General Heath, respecting the appointments of Brigadiers, be discharged from that service.

The Committee have considered the memorial of George Bond, Deputy Secretary, and the memorial of the clerks on the civil list and are of opinion that it is not expedient to augment their salaries.²

The Committee of the Week, [Mr. Ralph Izard, Mr. Ezra L'Hommedieu, Mr. William Hemsley] report, That the petition of Etienne Halbon on behalf of his wife, *setting forth that there is £12.. 10s due to her from the general hospital for wages as the residue of her pay while nurse in the hospital as by Dr. Binney's certificate directed to Dr. Bond, Jun., doth appear* be referred to the Superintendent of Finance Secretary of War.³

[Motion of Mr John Rutledge, seconded by Mr. Ralph Izard. To explain the meaning of the term, To take order. Debated and withdrawn.]

R. That when a matter is referred by Congress to any of the Executive Departments, to take order, it is the sense and intention of Congress that the measure referred to such department be carried into execution.⁴

¹ A copy of this resolution is in the *Papers of the Continental Congress*, No. 78, VIII, folio 21.

² This report, in the writing of Samuel Osgood, is in the *Papers of the Continental Congress*, No. 19, III, folio 217.

³ This report, in the writing of Ralph Izard, is in the *Papers of the Continental Congress*, No. 32, folio 413. It was passed this day, as the indorsement shows.

⁴ This motion, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 36, I, folio 433. It was withdrawn on this date, as the indorsement shows. Charles Thomson added the following note:

N. B.—It seemed to be the general sense of the house that a reference to take order implied a discretionary power. But it was argued by Mr Madison that if the thing was not done the officer should report the reasons that prevented.

Ordered, That a representation of the case of Chas. Morse for paying his Widow a quarter's Salary from 1st. October, 1782, be referred to the Superintendant of Finance to take order.¹

THURSDAY, NOVEMBER 14, 1782

The committee, consisting of Mr. [John] Rutledge, Mr. [Samuel] Osgood and Mr. [David] Howell, to whom was referred part of the report of a committee on Governor Clinton's letter of the 16 of September, and petitions of Charles Phelps, William Shattuck and Henry Evans; report,

"That the measures complained of in the papers above mentioned, were probably occasioned by the State of New York having lately issued commissions, both civil and military, to persons resident in the district called Vermont; and therefore the committee submit the following resolves:

"1. That it be recommended to the State of New York to revoke all commissions, either civil or military, which have been issued by the said State since the month of May last, to persons residing in the district called Vermont, as described in the resolves of the 7 and 20 August, 1781.

¹ This order was entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

On this day, according to the indorsement, a memorial of the General Assembly of Pennsylvania, dated November 12, respecting unsettled accounts and debts due to citizens of Pennsylvania, was read and referred to Mr. [Daniel] Carroll, Mr. [Thomas] McKean and Mr. [David] Howell. It is in the *Papers of the Continental Congress*, No. 69, II, folio 417.

Also, a letter of November 6th from the Governor of Maryland, relative to the case of Col. Henry Hollingsworth. It was referred to Mr. [David] Howell, Mr. [John Lewis] Gervais, Mr. [Ezra] L'Hommedieu, and is in No. 70, folio 521.

Also, a letter of November 11, from George Bond, Deputy Secretary, "for an augmentation of salary." It was "ordered to lie until the report of the Committee on his former application is taken up." It is in No. 78, IV, folio 357.

According to Committee Book, No. 186, it was ordered on this day that "the committee to whom were referred, on 22 July last, the charges of Mr. Clarke against Hodgdon, commissary of military stores, and petition of M. Coren, and deposition of J. Hall, deliver up the said papers to the Secretary at War and thereupon be discharged; and that the Secretary at War proceed by court of Enquiry or court martial against the said Hodgdon, in order that he may be acquitted or condemned, according to the law martial, of the charges exhibited against him." See *post*, December 18.

"2. That it be recommended to the persons exercising the powers of government within the said district, to make full and ample satisfaction to Charles Phelps, William Shattuck, and Henry Evans, and to all others in a similar predicament, for the damages which they have sustained in person and property, in consequence of the measures taken against them in the said district, and to suffer them to return to their habitations, and to remain unmolested in the district aforesaid.

"3. That it be recommended to the State of New York, and to the persons exercising the powers of government within the district aforesaid, to adhere to the recommendations of Congress contained in their resolve of September 24, 1779, until a decision shall be had by Congress on the subject referred to them by the said State of New York and the said district of Vermont."¹

On the question to agree to the first resolution, the yeas and nays being required by Mr. [James] Duane,

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Gilman,	no	} div.	Mr. Carroll,	no	} no
White,	ay		Hemsley,	no	
<i>Massachusetts,</i>			<i>Virginia,</i>		
Mr. Osgood,	ay	} *	Mr. Madison,	no	} *
<i>Rhode Island,</i>			<i>North Carolina,</i>		
Mr. Arnold,	ay	} ay	Mr. Williamson,	no	} no
Howell,	ay		Blount,	no	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Duane,	no	} no	Mr. Rutledge,	no	} no
L'Hommedieu,	no		Izard,	no	
<i>New Jersey,</i>			Gervais,	no	
Mr. Boudinot,	no	} *			
<i>Delaware,</i>					
Mr. McKean,	no	} no			
Wharton,	no				

So the question was lost.

¹ This report, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 19, V, folios 149, 151.

A motion was then made by Mr. [James] Duane, seconded by Mr. [Ezra] L'Hommedieu, that the second resolve be committed; and on the question for commitment, the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>			<i>Maryland,</i>		
Mr. Gilman,	ay	} div.	Mr. Carroll,	ay	} ay
White,	no		Hemsley,	ay	
<i>Massachusetts,</i>			<i>Virginia,</i>		
Mr. Osgood,	no	} *	Mr. Madison,	ay	} *
<i>Rhode Island,</i>			<i>North Carolina,</i>		
Mr. Arnold,	no	} no	Mr. Williamson,	ay	} ay
Howell,	no		Blount,	ay	
<i>New York,</i>			<i>South Carolina,</i>		
Mr. Duane,	ay	} ay	Mr. Rutledge,	no	} ay
L'Hommedieu,	ay		Izard,	ay	
<i>New Jersey,</i>			Gervais,	ay	
Mr. Boudinot,	ay	} *			
<i>Delaware,</i>					
Mr. McKean,	ay	} ay			
Wharton,	ay				

So the question was lost.

A motion was then made by Mr. [Thomas] McKean, seconded by Mr. [James] Duane, that the remainder of the report be postponed, on which the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>			<i>New York,</i>		
Mr. Gilman,	ay	} ay	Mr. Duane,	ay	} ay
White,	ay		L'Hommedieu,	ay	
<i>Massachusetts,</i>			<i>New Jersey,</i>		
Mr. Osgood,	ay	} *	Mr. Boudinot,	ay	} *
<i>Rhode Island,</i>			<i>Delaware,</i>		
Mr. Arnold,	no	} no	Mr. McKean,	ay	} ay
Howell,	no		Wharton,	ay	

<i>Maryland,</i>			<i>South Carolina,</i>	
Mr. Carroll,	ay	} ay	Mr. Rutledge,	no
Hemsley,	ay		Izard,	ay
<i>Virginia,</i>			Gervais,	ay
Mr. Madison,	ay	} *		
<i>North Carolina,</i>				
Mr. Williamson,	ay	} ay		
Blount,	ay			

So the question was lost; Whereupon, an adjournment was called for and agreed to.

MONDAY, NOVEMBER 18, 1782

Mr. [Thomas] Fitzsimmons and Mr. [Richard] Peters, two delegates for Pennsylvania, attended and produced their credentials, by which it appears that the Hon. Thomas Mifflin, Thomas Fitzsimmons, James Wilson, John Montgomery and Richard Peters, esqrs. were on the 12th instant duly elected delegates to represent that State in Congress.

STATE OF PENNSYLVANIA,
IN GENERAL ASSEMBLY,
Tuesday November 12, 1782, A. M.

Pursuant to the order of the day, the House proceeded to the election of Delegates to represent this State in Congress, and the ballots, being taken, it appeared, that the Honorable Thomas Mifflin, Thomas Fitzsimmons, James Wilson, John Montgomery, and Richard Peters, Esquires, were duly elected.

Extract from the Minutes.

PETER ZACHARY LLOYD
*Clerk of the General Assembly.*¹

Mr. [Abraham] Clark, a delegate for New Jersey, attended and took his seat.

Mr. [Joseph] Jones, a delegate for Virginia, attended, and took his seat.²

¹ The original is in the *Papers of the Continental Congress, Pennsylvania, Credentials of Delegates*. It was entered in No. 179, *Record of Credentials*, and not in the Journal.

² From this point to the end of the day the proceedings were also entered in the manuscript Secret Journal, Foreign Affairs.

On a report from the Superintendent of finance, to whom was referred a report of a committee on a memorial of Mr. A. Lee:

OFFICE OF FINANCE, 14th November, 1782.

SIR,

On the 19th day of July last the United States in Congress [were] pleased to refer the enclosed Report of a Committee, on the Memorial of M^r: Arthur Lee, to the Superintendent of Finance, to take order. Such references have always been considered by me as a direction to act according to my discretion. In the present case I determined to pay the money, for the following reasons: I conceived that there were material differences between common debts and those due to individuals for monies or supplies obtained by them in foreign countries, and particularly that *our* creditors, being liable to the demands of *their* creditors abroad, would be exposed to ruin from the attachment of their persons or effects, and that the public credit abroad must be also ruined which considering the dependence placed on the obtaining foreign loans would be of fatal consequence. From a consideration of these and other circumstances I had paid two hundred thousand livres to M^r: Ross, and one hundred thousand livres to M^r: Bingham, in part of their demands against the United States. These payments are (I suppose) what M^r: Lee alludes to in his memorial. The demand of M^r: Lee being the only one of the kind which could (in my conception) come against the United States, I did not think necessary to draw any line of distinction between those debts which were in the whole for services rendered, as his was or those which only were so in part, and in other greater part for effects, as those of M^r: Ross and M^r: Bingham. When M^r: Lee called upon me I gave him reason to believe that I intended to make payment. On the fifth of October he wrote me a letter, of which I enclose a copy, Number one. Number two is copy of my answer of the ninth, and Number three of the letter referred to in it. Number four is a copy of M^r: Lee's reply of the second instant. Congress will perceive that the reason why I declined payment, was that his acceptance of Loan Office Certificates had altered the nature of the debt. Conceiving therefore (as I have already mentioned) that the matter was referred to my discretion, I would not become responsible for discharging one set of Loan Office Certificates in preference of another; that being a matter which I think Congress alone are competent to. I have been informed that it was their intention to comply with M^r:

Lee's desire and for my own part I wish it may be done; but in that case an express Resolution will be necessary. I take the liberty therefore to submit the following to the consideration of Congress:

Resolved, That Arthur Lee, esq. be permitted to deliver up to the comptroller of the treasury, sundry loan office certificates in his possession, amounting to nine thousand nine hundred and fifty dollars and fifty-five ninetieths of a dollar, and that the same be, on such delivery, cancelled; and that the Superintendant of finance do thereupon pay the said Arthur Lee, the sum of two thousand two hundred and thirty-eight pounds, seventeen shillings and nine pence sterling, with interest from the tenth day of August, 1781, at six per cent. by bills of exchange in his favor, in livres, at the rate of ten pence half penny sterling each.¹

On the report of a committee, consisting of Mr. [Arthur] Lee, Mr. [John] Rutledge, and Mr. [James] Madison, to whom, upon a re-consideration, the resolution of the 28 of May last, was referred:

Resolved, That a commissioner be appointed by Congress, with full power and authority, to liquidate and finally to settle the accounts of all the servants of the United States, who have been entrusted with the expenditure of public money in Europe, and all other accounts of the United States in Europe, and to commence and prosecute such suits, causes, and actions, as may be necessary for that purpose, or for the recovery of any property of the said United States, in the hands of any person or persons whatsoever.

That the said commissioner be authorised to appoint one or more clerks, with such allowance as he may think reasonable.

That the said commissioner and clerks respectively take an oath before some person duly authorised to administer an oath, faithfully to execute the trust reposed in them respectively.

¹ This report is in the *Papers of the Continental Congress*, No. 137. II folio 1.

That the said Commissioner be allowed at the rate of
 each of the clerks of the said Commissioner be
 allowed at the rate of per annum, whilst
 necessarily employed in this business.

Postponed.

That the Superintendent of Finance be directed to report the nec-
 essary instructions for the said Commissioner which
 instructions by a resolve of the 29th of May last the
 said Superintendent was directed to prepare.¹

Passed.

¹ This report, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 26, folio 383. The following indorsed: "Draft of Report of Committee on Reconsideration of Resolution 28th May, 1782, respecting the public accountants in Europe," is on folio 385. It is in the writing of John Morin Scott, who was on the committee when it was first appointed, July 29, his place being taken by Madison, August 29, as shown by Committee Book No. 186:

The Committee to whom was referred, on reconsideration, the resolution of the 28th May, 1782, for appointing a Commissioner to liquidate and finally settle the accounts of all the servants of the United States who have been intrusted with the expenditure of public monies in Europe, having conferred with the Superintendent of Finance, report it as their opinion that the liquidation and final settlement of the said accounts ought to be made only at the treasury of these United States.

That nevertheless it is absolutely necessary for the purpose of doing full justice to these United States and the accountants on the most satisfactory grounds that some person should be authorized in Europe to receive of the accountants all the said accounts attended with a production to and inspection by him of the original vouchers duly attested and proved and with authenticated copies of the same and of the affidavits or other proofs to verify the original vouchers, to be by such person transmitted without delay to the office of the Superintendent of Finance that thereby the proof may be exactly identified. That instead of sending a Commissioner expressly for that purpose a measure that would be attended with delay and extraordinary expence and be exposed to hazard and disappointment, the Committee recommend that the Consul General of these United States resident in France be authorized for that purpose.

They further report that in their opinion those accounts ought to be so framed as to consist of a particular detail of all the sums of money which have from time to time come to the hands of the accountants respectively with their respective dates of receipt, and the gifts, aids, loans, subsidies and funds of whatever nature or kind on which they may have been respectively received and the public officers and other persons from whom respectively, with all which the accountants respectively ought, distinctly, fairly and accurately to debit themselves in account with these United States.

That as the burthen of the proof of the several expenditures must necessarily lie on the accountants, they ought respectively to attend their credits in account with the United States with clear, minute and satisfactory proofs not only of the actual expenditures and of the times when and persons to whom and uses for which, but also of the ground of authority on which the same were respectively made.

And for the better carrying of this report into execution, should the same be approved of by Congress, the Committee beg leave to report the following form of a special Commission to the said Consul General and instructions thereon, to wit—

"The *United States of America in Congress assembled* to all to whom these presents shall come send Greeting. Know ye that reposing special trust and confidence in the

Congress proceeded to the election of a commissioner, and, the ballots being taken, Mr. Thomas Barclay was elected, having been previously nominated by Mr. [Hugh] Williamson.

Resolved, That Congress will hereafter make adequate provision for the said commissioner, according to the nature and extent of the services which he shall perform.

Ordered, That the Superintendant of finance report the necessary instructions for the said commissioner, pursuant to the order of the 29 of May last.

The Committee [Mr. Daniel Carroll, Mr. Theodorick Bland and Mr. Samuel Osgood] to whom was referred the letter of the Secretary abilities, integrity and diligence of Esq^r Consul General for these United States resident in the kingdom of France these United States in Congress assembled have specially authorized assigned and appointed and by these presents do specially authorize assign and appoint the said Esq^r to demand have receive and take of and from all and every person and persons who has or have, at any time or times before the day of the date of these presents, been authorized and empowered by those United States in Congress assembled or any person or persons acting under their authority, to receive or has or have received on account and for the use of these United States in Europe any sum or sums of money whether in the nature of a gift, aid, loan, subsidy, or from any other fund of any nature kind or quality whatsoever, a just full true and particular account or accounts of all and every such sum and sums of money so received and of the expenditure of the same respectively or of so much thereof as shall have been expended, and to have and demand of and from any and every such accountant such proofs of his accounts as the said shall deem just and reasonable and the same accounts and each and every of them together with the several vouchers, evidences and proofs concerning the same respectively to transmit without delay certified under the seal and signature of his aforesaid office of Consul General to the Office of Superintendant of the Finances of these United States wheresoever the same may be, and also in all things to observe perform and fulfil the instructions herewith sent bearing equal dates with these presents. In Testimony &c."

The form of instructions to attend the Commission.

"Instructions attending a special Commission bearing even date with these presents to Consul General of the United States of America resident in France to demand have receive and take of and from all and every person and persons, who has or have rec'd for the use of these United States any sums of money in Europe and expended the same or any part thereof the accounts and vouchers of such receipts and expenditures, to wit:

1. You are without delay to call on every such account[ant] of whom you shall have knowledge, by a written application requesting him to render to you without delay particular clear full and perfect accounts of all such monies as have come to his hands on account of these United States by receipts in Europe from any public officers or other persons specifying therein the respective amounts and dates of such receipts

at War of the 30th of October, submit the following Report on part of the said letter.

R. That so much of the second Resolution of the 7th day of August last as relates to the officers retiring by voluntary agreement, be repealed to the word agreement, and that the latter part of the 4th Resolution from the words (October 1780) shall be understood to relate to officers who are called into service as corps shall be raised for them by their respective States, and not as being individually called in from retirement to fill up Regimental vacancies.

R. That any senior officer or officers whose loss of health or other circumstances are opposed to their continuance in service, and who by the arrangement which will take place on the 1st day of January next would have been entitled to remain in service by virtue of seniority in their respective grades, shall on signifying their desire on or before that day finally to relinquish their command in the army, the persons from whom and the gifts, loans, subsidies or other funds from which the same respectively arose for all which the accountant is to debit himself in account with these United States.

And you are to take every means in your power to discover whether the United States are credited in such account with all the monies rec'd by the accountant to their use.

2^dly As the burden of the proof as to the Expenditure of the monies will lie on the accountant every article of credit which he shall give himself in his account with these United States must be particularly distinctly and clearly stated expressing if for monies the persons to whom paid and the uses to which; if for goods not only the particular bales, chests, trunks and packages but also the particular invoices of each the vessels wherein shipped or the person or persons to whom delivered for transportation.

3^dly You are to require the production of vouchers for every article with which the U. S. shall be charged tracing every such article up to the person or persons who originally furnished the same, and you are carefully to examine into the authenticity veracity and fairness of every such voucher which shall be produced to you whether it be Shop Note, Bill of parcels, Invoice, Receipt, or Bill of Lading and you are to cause notarial copies of the same to be made and attested by the oaths of the persons respectively who shall have given the originals, and on refusal to give such oath you are to attend the copy with proof of such refusal; and in every case to take due care so to circumstantiate the voucher or vouchers in point of evidence as that a proper judgment may be formed here what credit ought to be given to the same and how far the same may tend to support the article or articles of charge in the accounts to which the same shall relate.

4thly. You are to transmit the said accounts and vouchers either together or from time [to time] in different parcels as they may concern different accounts and persons certified by you under your hand and seal of office, to the office of Superintendent of Finance of these United States wheresoever the same shall be, doing in all things in and concerning the premises as by your Commission and those instructions you are required.

In Testimony, &c."

and their future right to promotion, and their request meeting the approbation of the Commander in Chief be entitled to retire with the emoluments of officers retiring under the Resolution of the 3rd and 21st of October 1780. A list of the names of such officers to be immediately transmitted to the Secretary at War.

R. That it be recommended to the several States to settle with and satisfy the just demands of the officers and men of their lines respectively, and the troops of their States in the army of the U. S. for the sums due to them on account of their pay and the depreciation thereon, and for retained Rations up to the 1st day of January 1781 and charge the U. S. with the Sums they shall so severally adjust or pay, against the Requisitions of Congress made prior to the 2nd of November 1781.

R. That the paymaster general furnish the Secretary at War with accounts of pay and all advances for which they are or may be chargeable received by the officers and men of the several Regiments in the U. S. from time to time as they may be called for by him.

R. That all vacancies in the line of any State prior to the 1st of January next shall be filled up, so that the retiring officers shall leave service with the same rank they would have held had not the arrangement aforesaid been made.

R. That such parts of the Secretary at War's letter of the as relate to the pay of the army be referred to the Superintendent of Finance.¹

The Committee consisting of M^r [Samuel] Osgood, M^r [Ralph] Izard, M^r [Theodorick] Bland, and M^r [James] Duane appointed to consider

Report upon the letter of John Moylan Clothier General of the 10th of April 1782,

That having conferred with the Superintendent of Finance upon the Cloathing Department, and being informed that he is taking measures to abolish it, submit the following resolution—

Resolved, That the Committee appointed to consider the letter of John Moylan, Clothier General, be discharged from that service, and that the said letter be referred to the Superintendent of Finance to report thereon and also on the propriety of continuing the said Department.

Passed.

¹ This report, in the writing of a clerk, is in the *Papers of the Continental Congress*, No. 21, folio 303. It was read November 12, and ordered for consideration November 14. It was recommitted on this day, according to the indorsement, to Messrs. [Daniel] Carroll, [Samuel] Osgood and [Richard] Peters. A duplicate is on folio 305.

The Committee have considered the Memorial of the Naval Prisoners dated on board the *Jersey* Prison Ship February 14th 1781, praying to be exchanged and are of opinion that Congress has already taken such measures for a general cartel as are Consistent with the honor and dignity of the United States—and therefore submit the following resolution:

Passed. *Resolved*, That the Committee appointed to consider the above Memorial be discharged from that service.

The Committee have considered the letter of General Washington of the 21st of August respecting the pay and emoluments allowed to the Adjutant General ~~and being informed by the Secretary of War that it is probable that General Hand will continue in that office upon the present pay and emoluments,~~ therefore and not finding sufficient reason for altering the present establishment submit the following resolution:

Resolved, That the Committee appointed to consider General Washington's letter of the 21st of August, be discharged from that service.

The Committee have considered the Memorial of the Rev^d James Sproat setting forth that he was appointed Chaplain to the Hospitals, February 8th 1778, and that he was dismissed the 9th of November 1780, that he has received pay for part of the time only and that in depreciated Currency, and praying for compensation in both respects by an adjustment of his accounts, submit the following resolution:

Passed. *Resolved*, That so much of the Memorial of the Rev^d James Sproat as relates to the arrears of pay due to him, be referred to the Superintendent of Finance for adjustment.¹

[Report of M^r George Clymer, M^r Eliphalet Dyer, and M^r James Duane.]

The Committee to whom was referred the report of the Superintendent of finance on the Memorial of the late issuing commissaries, report—

That on the establishment of the issuing department the pay of the deputy commissaries general was fixed at seventy-five dollars, and that of the assistants at forty dollars per month, which afterwards in July and August 1777 was increased; the deputy commissaries to

¹ This report, in the writing of Samuel Osgood, is in the *Papers of the Continental Congress*, No. 31, folio 81. According to the indorsement, it was delivered October 29, and acted on, November 18.

one hundred dollars, and the assistants to sixty dollars. That your Committee conceive upon every equitable consideration the depreciation should be allowed to all such of the said deputy commissaries and assistants, as were affixed to some post within the limits of the Army as permanently established for the use thereof, or which had been allowed by the Board of War, the Commander in Chief or commander of a separate army, agreeably to a Resolve of Congress of the 15th day of July 1780, and had continued in such service until the first day of January 1782; but as the addition to the original pay, although made before any depreciation was formally declared, was undoubtedly a consequence of a depreciation which had actually taken place and by which alone the original pay became an inadequate compensation, your Committee are clearly of opinion that the allowances to be made for depreciation should be calculated on the said original pay, the balance of said pay, and the depreciation so allowed, to be passed to the credit of said deputies and their assistants, in the books of the Treasury—That with respect to such assistant issuers as had acted at posts occasionally established, or who had quitted the service before the said first day of January 1782, they are entitled to a credit only of the pay originally stipulated, without any allowance on account of depreciation, but that in either case, until a complete settlement is obtained of the accounts of receipts and issues of provision within the said department, they conceive it will be inexpedient to grant any certificates for, or give any transferable evidence whatever of the amount of such credits—but that the speediest justice may be done to the persons thus credited, the commissioner for settling the commissaries department should be directed immediately to proceed to the adjustment and liquidation of the aforesaid accounts.

Your Committee are also of opinion, that in the settlement of the accounts of the issuing department it should be a direction to the said commissioner, that in all instances where bills of the new emission have been paid in part for articles contracted for by the commissary general, or on account of liquors or provisions seized for the use of the Army, or on account of pay to that department he estimate them by the current value thereof, as compared with specie, at the times when and places where such instances have occurred.

If Congress approve of the above report they will be pleased so to resolve.¹

A reference having been made to the Commander in Chief respecting a rule for promotion for the General Officers in the Army: the committee are of opinion that any report from them would be premature and, therefore, recommend the following resolution:

Resolved, That the Committee on General Hazen's letter be discharged.²

The Agent of Marine to whom was referred the memorial of Samuel Nicholas begs leave to Report,

That the officers of the Marine appear to be entitled to the same measure of justice as to the depreciation of their pay with those in the land service.

That the referring such officers to the several States with a promise on the part of the United States that the monies which may be paid by such State shall be carried to account of the particular State, is only a different mode of payment with this disadvantage that it tends to keep up Ideas of disunion which cannot be useful.

That it appears therefore to be most proper, that all such accounts should be settled in like manner with others and the balances put upon Interest at 6 per cent. to be funded on such revenues as may be provided for liquidating the public debts.³

SIR,

If Congress approve the measure they will please to resolve,

That the Secretary at War issue his warrant on the Paymaster General for the sum of one hundred and forty dollars in favor of William Massey, Esq., late Deputy Muster Master, in part of one year's pay granted to him and the several officers of the Department

¹ This report, in the writing of George Clymer, is in the *Papers of the Continental Congress*, No. 31, folio 285. According to the indorsement, it was referred on this day to Mr. [James] Duane, Mr. [James] Madison and Mr. [Abraham] Clark, and Committee Book No. 191 shows that a report was delivered November 21 and referred to the Grand Committee of January 6, 1783.

² This report, in the writing of James Duane, is in the *Papers of the Continental Congress*, No. 42, III, folio 535. According to the indorsement the resolution was agreed to. Hazen's letter is on folio 528.

³ This report is in the *Papers of the Continental Congress*, No. 137, I, folio 779. According to the indorsement it was referred to Mr. [James] Duane, Mr. [James] Madison, Mr. [Abraham] Clark on this day, having been delivered October 7 and being dated October 4.

of Commissary General of Musters on the derangement of that Department.¹

TUESDAY, NOVEMBER 19, 1782

On the report of a committee, consisting of Mr. [Daniel] Carroll, Mr. [Samuel] Osgood, and Mr. [Richard] Peters, to whom was referred a report of a committee on a letter of the 30 of October, from the Secretary at War:

Resolved, That the senior officers of each grade, sufficient to form corps agreeable to the act of the 7th of August last, (the regiments to have their complement of officers, as established by the acts of the 3 and 21 of October, 1780, except as to the therein proposed supernumerary subaltern for receiving the recruits, who shall be omitted,) shall be retained in service for the command of the said corps; and the redundant junior officers of the several grades shall retire from immediate service, agreeably to the said first recited act, but the said junior officers, so retiring, shall retain their rank in the army, and be liable and entitled to be called into actual service, only when regiments or corps shall be raised for them by their respective states. But any senior officer, entitled to remain in service, shall have the liberty of retiring, with the emoluments of officers retiring under the acts last recited, for reasons satisfactory to the Commander in Chief, or the commanding officer of the southern army, on such retiring officer relinquishing his command and future right of promotion in the army, and signifying the same, on or before the 1st day of January next, to the Commander in Chief or the commanding officer of the southern army, who shall duly transmit lists of such retiring officers, to the Secretary at War; any act or resolution of Congress to the contrary hereof notwithstanding.

¹ This report is in the *Papers of the Continental Congress*, No. 149, II, folio 143. It is written upon a letter, of October 14, from John Pierce, and was read on this day.

That ~~all vacancies in the several state lines be filled up prior to~~
~~the first~~ Commissions issue to the Officers in the several State lines who are or shall be entitled to promotion prior to the first day of January next, that the retiring officers may leave the service with the ranks to which they are or shall be respectively entitled previous to that period.

Negatived.

That it be recommended to the several States to satisfy the Officers and men of their respective lines for the sums due to them for pay while in service and the depreciation thereon and retained rations up to the first day of ~~January~~ March, 1781; all sums paid on the foregoing account to be allowed in part of the requisitions of Congress made prior to the second day of November 1781.

That the paymaster general furnish the Secretary at War from time to time as they may be called for by him with the accounts of all pay and advances received by or chargeable to the officers and men of the several regiments in the service of the United States.

Passed.

That such parts of the Secretary at War's letter of the 30 October last as relates to the pay of the Army be referred to the Superintendent of finance to report thereon.¹

Passed.

¹ This report, in the writing of a clerk, is in the *Papers of the Continental Congress*, No. 27, folio 203.

In No. 149, II, folios 91 and 95, in the writing of the Secretary at War's secretary with interlineations in Richard Peters' writing, is the following, and a draft of the paragraph next to the last, in the writing of Richard Peters, is on folio 89.

Resolved, That it be recommended to the several States to settle with and satisfy the just demands of the officers and men of their lines respectively the troops of their States in the army of the United States for the sums due to them on acc^t of their pay, and the depreciation thereon, and for retained rations up to the first day of January 1781 and charge the United States with the sums they shall so severally adjust or pay, against the requisition of Congress made prior to the 2^d of Nov^r 1781.

Resolved, That the Paymaster General furnish the Secretary at War with the accounts of pay and all advances for which they are or may be chargeable received by the officers and men of the several regiments in the United States ~~for the years 1780 and 1781; that he may forward them as soon as possible to the several States for settlement~~ from time to time as they may be called for by him.

Resolved, That so much of the act of Congress of the 7th of August last which provides that the retiring officers shall retain their rank in the army and be called into the service from time to time according to seniority in case of deficiencies of officers upon the principles of the foregoing resolutions be and is hereby repealed.

Resolved, That when any of the United States shall ~~have raised any new corps of men~~ make additions to the corps of their line in the field, that they shall be officered by the senior officers of the several grades (unless otherwise agreed on by the officers) from among the officers who retire under the resolution of Congress of the 7th of August

When the foregoing resolution was under debate,

A motion was made by Mr. [David] Howell, seconded by Mr. [Jonathan] Arnold, to strike out the words "command and,"

And on the question, shall these words stand? the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>			<i>Delaware,</i>	
Mr. Gilman,	no	} no	Mr. Wharton,	ay } *
White,	no		<i>Maryland,</i>	
<i>Massachusetts,</i>			Mr. Carroll,	ay } ay
Mr. Osgood,	ay	} *	Hemsley,	ay
<i>Rhode Island,</i>			<i>Virginia,</i>	
Mr. Arnold,	no	} no	Mr. Jones,	ay } ay
Howell,	no		Madison,	ay
<i>New York,</i>			<i>North Carolina,</i>	
Mr. Duane,	ay	} ay	Mr. Nash,	ay } ay
L'Hommedieu,	ay		Williamson,	ay
<i>New Jersey,</i>			<i>South Carolina,</i>	
Mr. Boudinot,	ay	} ay	Mr. Rutledge,	ay } ay
Clark,	ay		Ramsay,	ay
<i>Pennsylvania,</i>				
Mr. Fitzsimmons,	ay	} ay		
Peters,	ay			

So it was resolved in the affirmative.

last and the officers being so called into service shall thereon enjoy the same relative rank in the line of the State as they would have possessed had the arrangement of the 7 of August aforesaid not taken place.

Resolved, That all vacancies which shall happen in the line of any State prior to the first of January next shall be filled up, so that the retiring officers shall leave service with the same rank they would have held had not the arrangement aforesaid been made, nothing however in this resolution shall be construed to extend to the appointing more subaltern officers, than are required for the regiments in the field.

Resolved, That it be recommended to the several States to settle with and satisfy the officers of their lines respectively and the troops of their States in the army of the United States, the half pay in a manner which shall be mutually agreed on between the States and their officers, for which payment they shall be credited by the United States, and not be responsible for the half pay due to the officers of other States, unless the payment to their own officers is not equal to the sum due from them to the Continent on account of the half pay promised, in which case they shall only be chargeable with the amount of such deficiency.

Resolved, That so much of the letter from the Secretary at War as relates to the pay of the Army be referred to the Superintendent of finance.

Congress proceeded to the consideration of the report, and the committee having reported, "that commissions issue to the officers in the several state lines, who are or shall be entitled to promotion, prior to the first day of January next; that the retiring officers may leave the service with the ranks to which they are or shall be respectively entitled, previous to that period."

On the question to agree to this proposition, the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	no	} no	Mr. Wharton,	ay	} *
White,	no		<i>Maryland,</i>		
<i>Massachusetts,</i>			Mr. Carroll,	ay	} ay
Mr. Osgood,	ay	*	Hemsley,	ay	
<i>Rhode Island,</i>			<i>Virginia,</i>		
Mr. Arnold,	no	} no	Mr. Jones,	ay	} ay
Howell,	no		Madison,	ay	
<i>New York,</i>			<i>North Carolina,</i>		
Mr. Duane,	ay	} ay	Mr. Nash,	ay	} ay
L'Hommedieu,	ay		Williamson,	ay	
<i>New Jersey,</i>			<i>South Carolina,</i>		
Mr. Boudinot,	ay	} div.	Mr. Rutledge,	ay	} ay
Clark,	no		Ramsay,	ay	
<i>Pennsylvania,</i>			Izard,	ay	
Mr. Fitzsimmons,	ay	} ay	Gervais,	ay	
Peters,	ay				

So the question was lost.

WEDNESDAY, NOVEMBER 20, 1782

Mr. [Thomas] Mifflin, a delegate for Pennsylvania, attended, and took his seat.

On motion of Mr. [Richard] Peters, seconded by Mr. [Abraham] Clark,

Resolved, That commissions issue, on promotions properly certified, for all regimental officers entitled to fill vacancies happening before the first day of January next, excepting

vacancies occasioned by senior officers retiring, agreeably to the resolve of the 19 instant, any resolution of Congress to the contrary hereof notwithstanding.

On the question to agree to this resolution, the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>		<i>Delaware,</i>	
Mr. Gilman,	ay } ay	Mr. Wharton,	ay } *
White,	ay }	<i>Maryland,</i>	
<i>Massachusetts,</i>		Mr. Carroll,	ay } ay
Mr. Osgood,	ay } *	Hemsley,	ay }
<i>Rhode Island,</i>		<i>Virginia,</i>	
Mr. Arnold,	ay } ay	Mr. Madison,	ay } *
Howell,	ay }	<i>North Carolina,</i>	
<i>New York,</i>		Mr. Nash,	ay } ay
Mr. Duane,	ay } ay	Williamson,	ay }
L'Hommedieu,	ay }	<i>South Carolina,</i>	
<i>New Jersey,</i>		Mr. Rutledge,	ay } ay
Mr. Boudinot,	ay } ay	Ramsay,	ay }
Clark,	ay }	Izard,	ay }
<i>Pennsylvania,</i>		Gervais,	ay }
Mr. Mifflin,	ay } ay		
Fitzsimmons,	ay }		
Peters,	ay }		

So it was resolved in the affirmative.

Ordered, That the Paymaster General furnish the Secretary at War, from time to time, as they may be called for by him, with the accounts of all pay and advances received by or chargeable to the officers and men of the several regiments in the service of the United States.

The report of the committee, consisting of Mr. [Arthur] Lee, Mr. [Ralph] Izard, and Mr. [Samuel] Wharton, to whom were referred a letter of 24 May last from the Superintendent of finance, and the orders given to Captain Harding, being taken into consideration, and after debate postponed:

The Committee to whom the letter of the 24th of May from the Superintendant of Finance, with the papers enclosed, and the instructions to Cap^t Harding were referred, beg leave to Report—

That they do not find any thing in the letters of the Count de Vergennes or of D^r Franklin to warrant the estimate of 500,000 Livres for negotiating 10,000,000 Livres being the Loan in Holland—

With regard to the expences and salaries of the Ministers of the United States abroad, your Committee find, that by the resolves of Congress there is allowed, in full for salary and expences to the Minister Plenipotentiary at the Court of Versailles £2500 Sterling or 57140 Livres per annum—to the Minister Plenip^r for the Court of Spain £2500 St^g. or 57140 Livres per annum, to the Secretary of that embassy £1000 St^g. per annum or 22,286 Livres—to the Minister Plenipotentiary for Negotiating a peace, £2500 Sterling or 57140 Livres—to the Minister for Negotiating a Loan in Holland £1500 St^g. per annum or 34284 Livres—

Upon examining the accounts of M. Grand, Banker for the U. States in Paris, the Committee find that the Minister at the Court of Versailles, has paid himself out of the public Money 41188 Livres, which sum appears to be 8333 Livres less than his salary as Commissioner, computed from the 4th of Oct^r 1775, the time of his leaving Philadelphia to the 11th of Feb^r 1779, when he received his Commission as Minister Plenipotentiary.

That he has received quarterly for his salary as Minister Plenipotentiary 15000 Livres making in the year 60,000 Livres that there have been further paid on his account for postage of letters, messengers, and other contingencies 4284 Livres—

That M^r W. T. Franklin has received by the order of the Minister Plenipotentiary, at the Court of Versailles as his private secretary 18229 Livres 19 Sols. for salaries to Jan^r 4th 1781, but it does not appear at what time the salary commenced, and that from this period he has received quarterly 1800 livres, which amounts to 300 Louis d'ors instead of three hundred Pounds a year which have been allowed by Congress.

That M^r Adams has received in full for his salary, for two years to Nov^r 1781, 120000 Livres which is 5729 Livres more than is allowed for his salary and expences. That M^r Dana has received his salary rated in Louis d'ors instead of pounds Sterling.

It appears therefore that the salaries and expences of the foreign Delegation should not exceed 263,072 per annum tho' 400,000 Livres are allowed for this purpose in the estimate.

Your Committee received information from the Sup^t of Finance, that the supplies mentioned in the Count de Vergennes' letter as sent in May and June 1781 were delivered at Boston to the order of

the Secretary at War, except those in one transport which having lost a Mast put into La Corogne and has not since been heard of, and that the Goods intended to be Shipped in March 1782 were not yet arrived.

Your Committee observe on examining the Banker's accounts, that very large sums of the public Money in France amounting to many hundred thousand livres have been appropriated since the completion of the Confederation by the Minister Plenipotentiary at the Court of Versailles to persons and purposes, for which they find no authority on the Journals of Congress. ~~Considering the check in the Confederation, even on Congress itself, in making nine States necessary to appropriate public money, the number of expensive officers for controlling the expediture of it and the very great additional expence and difficulty in settling accounts so raised in Europe the allowing a minister for political affairs in Europe to appropriate without control the moneys borrowed or obtained for the U. S. is subverting every principle and provision of the Confederation on this point, and tending to all the mischiefs which a wise and economical administration of the public finances would wish to avoid.~~

It appears further by the Sketch from Count de Vergennes in his letter to D^r Franklin of Feb^r 6th 1782 that the United States are debited with the sum of 1,430,000 Livres, as money sent to Holland and remitted to D^r Franklin, whereas there were received of that sum according to the Banker's Account, only 1,410,460 Livres: So that the loss to the United States on the recall of that money was 19,540 Livres.

Upon examining into the fulfilment of that Article of the instructions given to Capt. Harding of the Frigate *Confederacy*, by which he is directed to bring the Naval Stores supposed to have been lodged in the hands of M. Carabasse at Cape François for the use of the United States by order of Roderique Hortales & Co it appeared from a letter signed B. Lavand Acting Agent for these States at the Cape dated March 14th 1781, (See paper N^o 1) that the Naval Stores had been applied to the use of Count D'Estaing's fleet and paid for to M. Carabasse, who said he had accounted for the proceeds with the said Roderique, Hortales & Co.

The said Agent states his having paid to M. Carabasse, out of Monies in his hands belonging to the U. S. 31958L. 2^s 6^d being the balance of an account of which a copy accompanies this report N^o 1, of which balance 11370L. 15^s was for three years storage of goods, which had been deposited there for the U. States the remainder for

Salt shipped three years before the date of M. Lavand's letter, by the said Carabasse, to the order of M. Dorieux one of the Agents of Congress.

Your Committee find upon the Journals of the 7th of April 1778 that Roderique Hortales & Co had shipped considerable quantities of Stores for the use of the United States and that some cargoes of American produce, had been shipped to the said firm on account of the United States in part payment. It appears further from the Journals June 5th 1779 that M. de Beaumarchais's Agent states the whole of the demand of the above House against the U. S. at 4,547,593 Livres—that he acknowledges having received on Account 300,000 Livres and 115½ hhd's of Tobacco, and that bills on the Commissioners in France were then ordered to be given him to the amount of 2,400,000 Livres together with all the merchantable tobacco belonging to the public in Virginia, Maryland and North Carolina.

D^r Franklin in his letter to the President of Congress dated Oct^r 4th 1779, N^o 2, acknowledges the receipt of those bills, and it appears by the estimate from the Superintendent of Finance that 2,540,000 livres have been reserved in D^r Franklin's hands for the payment of them, notwithstanding the Doctor writes in the same letter, "that neither the Commissioners when they were all together, nor himself, have ever been able to obtain a sight of M. de Beaumarchais's accounts tho' repeatedly promised; and that he begins to give over all expectation of it."

It appears farther that when a demand was made on M. Carabasse Agent for Beaumarchais at the Cape, for a part of the supplies which make up the charge of Roderique Hortales & Co against the United States and which were said to have been deposited with the said Carabasse for their use; his answer was, in a letter of the 20th Nov^r 1780, N^o 3, that he could not deliver any thing without the express order of M. De Beaumarchais being bound, by an agreement with the said Beaumarchais, to that effect.

Upon the whole, therefore, it seems that part of the Articles charged to the U. S. have been sold for the benefit of Roderique Hortales & Co or M. de Beaumarchais and part are withheld from them by his order; and that he has not accounted for the property of the United States shipped to him, nor made any settlement by which his true demand on the U. S. may be liquidated.

Your Committee therefore submit the following resolution:

That the Superintendent of Finance be directed to take effectual measures for preventing any further payments being made to

M. de Beaumarchais or Roderique, Hortales & Co 'til he shall have made a full and fair settlement of his Account with the Commissioner or Commissioners which shall be appointed by Congress for the final settlement of their Accounts in Europe.¹

On motion of Mr. [James] Duane, seconded by Mr. [James] Madison,

Resolved, That the Superintendant of finance be directed to instruct the commissioner for settling the public accounts in Europe, to take proper measures for adjusting, without delay, the accounts of Mr. de Beaumarchais or Roderique Hortales & Co. and to report such settlement to Congress, that order may be taken for payment of the balance, if any shall be justly due; [and that in the mean time no farther remittance or payments be made to Mr. de Beaumarchais or Roderique Hortales and Co. by virtue of any former resolution of Congress.]²

The Committee consisting [of Mr Richard Peters, Mr James Duane and Mr Samuel Osgood], to whom was referred the letter of the Secretary at War of the 31st of October, beg leave to report,

That in the opinion of your committee sufficient provision is made on the subject of the Secretary at War's letter relating to the Legionary Corps of Pennsylvania by Act of Congress of the 23rd day of August last.³

WAR OFFICE, Oct. 7th, 1782.

SIR,

The case of John Hall whose petition to Congress has been referred to me, is one of the many which have not had any settlement of their depreciation, all of which will probably sooner or later be applied for. I beg leave to suggest the propriety of taking up the matter at large and that provision be at once made for all under like circumstances.

¹ This report, in the writing of Arthur Lee, is in the *Papers of the Continental Congress*, No. 19, IV, folio 371.

² This resolution, in the writing of James Duane, except the portion in brackets, which is in the writing of Ralph Izard, is in the *Papers of the Continental Congress*, No. 36, I, folios 439 and 445.

It was also entered in the manuscript Secret Journal, Foreign Affairs.

³ This report, in the writing of Richard Peters, is in the *Papers of the Continental Congress*, No. 27, folio 205. The indorsement states that it was passed this day. The Secretary at War's letter is in No. 149, II, folio 117; it was read November 1, and committed November 18.

That Congress may be more fully impressed with the necessity of this measure, I have stated the claims of Mr Hall. I cannot find that any establishment was made for him by Congress. He was part of the time while in service allowed forty dollars per month and three rations per day and another part of the time fifty dollars per month and four rations per day. I do not know what the Gentlemen who employed Mr Hall could suppose would justify an allowance of this kind (for though a good man, yet his business of overseeing the armourers was neither hazardous or of high trust) unless it was because our money was really depreciated and that it was meant to make up in some sort the value of the money by quantity.

In paper number one his account is stated and the depreciation cast on the sums he was to receive per month and which was paid him by which there appears to be due to him to balance his account eleven hundred and thirty one dollars and $\frac{3}{8}$ specie.

In number two he is charged with the whole money received and credited for his services, a sum which is at this day given for a like trust; by this statement there appears to be due to balance his account five hundred dollars and $\frac{5}{8}$.

Resolved, That the State of Pennsylvania pay unto John Hall dollars which is due to him for the depreciation of his pay as an overseer of the Armourers, and charge the same to the United States.¹

Ordered, That the Superintendent of Finance report what progress has been made in the settlement of the public accounts, pursuant to the Resolutions of 20th and 27 of February last, and what causes impede the Execution of the plan.

That so much of the letter of 30th October from the Secretary at War as relates to the pay of the army be referred to the Superintendent of Finance to report thereon.²

¹ This report is in the *Papers of the Continental Congress*, No. 149, I, folio 713. According to the indorsement it was delivered October 7 and on November 20 referred to Mr. [James] Duane, Mr. [James] Madison, Mr. [Abraham] Clark.

² These two orders were entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

On this day, according to Committee Book No. 186, the "report of Committee on the Memorials of the *Assembly of Pennsylvania*, relative to the liquidation of public accounts and payment of interest for debts due to the citizens of the state," was referred to Mr. [Daniel] Carroll, Mr. [David] Howell, Mr. [Thomas] Fitzsimmons, Mr. [James] Duane and Mr. [David] Ramsay. Later, Howell was replaced on the committee by Mr. [Nathaniel] Gorham, and Duane by Mr. [Alexander] Hamilton, and a report was delivered and passed January 30, 1783.

THURSDAY, NOVEMBER 21, 1782

A letter, of 17, from W. Paca, was read, informing, that the general assembly of Maryland having promoted him to the government of that State, he is obliged to resign his office of judge of the court of appeals in cases of capture.¹

The committee, consisting of Mr. [David] Howell, Mr. [John Lewis] Gervais and Mr. [Ezra] L'Hommedieu, having reported on the letter of the 6 from the governor of Maryland, relative to the case of Colonel H. Hollingsworth:

The Committee to whom was referred the letter from the Governor of the State of Maryland of the 6th of November 1782 relative to Col. Henry Hollingsworth, report,

That in consequence of the Resolution of Congress of the 20th of July 1780 respecting the conduct of the said Henry Hollingsworth, the Deposition of Robert Anderson was by the Executive of the said State, laid before the Honorable Alexander Contee Hanson Esq. one of the Judges of the General Court of the said State, who having perused the papers relative to the case of the said Henry Hollingsworth (mentioned in the said Resolve of the 20th of July and in the Resolution of the 15th of August in the same year) in his letter to the Governor of Maryland of the 19th of December 1780, which letter is on the files of Congress, gave an official opinion, that there were no grounds for instituting a criminal prosecution against the said Henry Hollingsworth, that the said official opinion in the judgment of your Committee ought to be satisfactory ~~and that the said Henry Hollingsworth be acquitted of the accusation of the supposed forgery mentioned in the aforesaid Resolution~~; if Congress agree with their Committee, they will be pleased so to resolve.²

Resolved, That Congress are satisfied with the report of the Hon. Alexander Contee Hanson, esq. one of the judges of the general court of the State of Maryland, on the case of Henry Hollingsworth, referred to him by the executive of the said State, in pursuance of the act of Congress of the 20 July,

¹ This letter is in the *Papers of the Continental Congress*, No. 59, III, folio 55.

² This report, in the writing of Ezra L'Hommedieu, is in the *Papers of the Continental Congress*, No. 19, III, folio 151. A letter of Hollingsworth's dated November 9, is in No. 78, XII, folio 257.

1780; and that the complaint against the said H. Hollingsworth be dismissed.¹

[Report of Mr George Clymer, Mr Arthur Lee, Mr Jonathan Jackson, on a paper relative to the Trade between No. America and the West India Islands. Delivered Sept. 17, 1782. Read. Ent^d Nov. 21, 1782, referred to the Secretary for Foreign Affairs.]

The Committee to whom was referred a paper on the mutual advantages of the Commerce between North America and the West Indies, report that the said paper is particularly calculated to shew the benefit that would result to the several nations in Europe, which have West India Colonies from a removal of the restraints imposed by colonial systems upon the No. American trade, and that in their opinion if the paper entitled *Thoughts on the West India trade*, being the substance of the one referred to the Committee, was transmitted to our several Ministers abroad it might serve as a useful material of information on this subject. Should Congress concur in sentiment, they will resolve,

That the Report of the Committee be approved of and that the Secretary for foreign affairs be directed to transmit the said paper to our Ministers Plenipotentiary abroad.²

The Committee consisting of Mr [James] Duane, Mr [James] Madison and Mr [Abraham] Clark, to whom were referred the report of the Secretary at War on the Memorial of John Hall; and the report of the Agent of Marine on a Memorial of Samuel Nicholas, submit the following Report:

Resolved, That Congress will make good to the Officers of Artillery, Cavalry and Infantry who have from time to time been deranged or reduced in the line of the army and the independent corps thereof; and to the officers of the Marine of the United States; and to the Muster Masters General and their Deputies; and to the Commissaries and Artificers of the Department of Military Stores, respectively, the deficiency of their original pay occasioned by the depreciation of Continental bills of credit, in the same manner as it is allowed to the Line of the Army by Act of Congress of the 10th of April 1780. That their several accounts be settled accordingly, and the balances placed

¹ This resolution, in the writing of James Duane, is in the *Papers of the Continental Congress*, No. 19, III, folio 153.

² This report, in the writing of George Clymer, is in the *Papers of the Continental Congress*, No. 25, II, folio 143. Two papers entitled *Thoughts on the West India Trade* are the one on folio 145, the other on folio 153.

upon the books of the Treasury on interest at 6 pr. cent per annum, to be secured and paid in the same manner as the other debts of the United States are or shall be secured and paid.¹

Resolved, That it be recommended to the legislatures of the several states to settle with and satisfy the officers and men of such temporary Corps of Troops, as may have been raised by them respectively, with the approbation of Congress, for their pay and emoluments and the depreciation thereon, and charge the same to the United States.²

The Committee, consisting of Mr. [James] Duane, Mr. [James] Madison and Mr. [Abraham] Clark, to whom were referred the Report of a Committee on the report of the Superintendent of Finance on the Memorial of the late issuing Commissioners beg leave to report.

That in their opinion, it is at this time inexpedient to decide on the report of the Committee on the report of the Superintendent of Finance respecting the memorial of the late Commissaries of Issues.³

Sundry members of the committees appointed on the 2d July last to enquire into the proceedings of the Departments of Finance and Marine being absent, the appointments were renewed as follows:

Mr. [James] Duane, Mr. [Samuel] Osgood, Mr. [Abraham] Clark, Mr. [Thomas] Fitzsimmons, Mr. [Samuel] Wharton, appointed to enquire fully into the proceedings of the Office of Finance, including the several branches of the same, and report the result of their enquiry.

Mr. [Samuel] Wharton, Mr. [David] Howell, Mr. [John Lewis] Gervais, Mr. [Abner] Nash, Mr. [John Taylor] Gilman, to enquire fully

¹ This report, in the writing of James Duane, is in the *Papers of the Continental Congress*, No. 27, folio 207. The indorsement states that it was read November 21, and November 26 was assigned for consideration. According to Committee Books 186 and 191 it was, on January 14, 1783, referred to the Grand Committee of January 6.

² This motion, in the writing of Jonathan Arnold, is in the *Papers of the Continental Congress*, No. 36, I, folio 429. According to the indorsement it was Mr. [David] Howell's motion and was withdrawn on this day.

³ This report, in the writing of James Duane, is in the *Papers of the Continental Congress*, No. 31, folio 293. Committee Books No. 186 and No. 191 show that it was delivered November 21, 1782, and referred, on January 14, 1783, to the Grand Committee of January 6. The indorsement states that it was referred on January 14, 1783, to Mr. [Phillips] White, Mr. [Samuel] Osgood, Mr. [Jonathan] Arnold, Mr. [Oliver] Wolcott, Mr. [Alexander] Hamilton, Mr. [Silas] Conduct, Mr. [Richard] Peters, Mr. [Philemon] Dickinson, Mr. [Daniel] Carroll, Mr. [James] Madison, Mr. [Abner] Nash and Mr. [John] Rutledge; and that on March 6 it was "referred pursuant to a report of the grand committee to Mr. [Oliver] Wolcott, Mr. [Stephen] Higginson, and Mr. T[homas] S[im] Lee."

into the proceedings of the Department of Marine, and report the result of their enquiry.

Ordered, That a memorial of Thomas Frink with the Vouchers enclosed be referred to the Commissioner for settling the accounts of the Hospital Department.

That a Memorial of Baron Hotzendorf with a report of a Committee thereon be referred to the Superintendent of Finance to report.¹

FRIDAY, NOVEMBER 22, 1782

On motion of Mr. [James] Madison, seconded by Mr. [Samuel] Osgood,

Resolved, That Monday the 2d of December next, be assigned for electing two judges for the court of appeals in cases of capture, one in the room of Mr. Paca, resigned, and one in the room of Mr. Hosmer, deceased.

[Mr. James Madison and Mr. Samuel Osgood's motion, November 22, 1782.]

That the Committee in the case of the exchange of Lord Cornwallis be instructed to report a proper act for the ratification of the said exchange.²

Ordered, That the following paragraph of a report: "That it be recommended to the several states to satisfy the Officers and Men of

¹ These committee appointments and orders were entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

On this day, according to the indorsement, a letter, of September 13, from the Secretary at War, relating to British prisoners of war, was referred back to him to report. It is in the *Papers of the Continental Congress*, No. 149, II, folio 171. See *post*, December 11.

On this day, a letter dated November 20, from the Secretary at War, was read, enclosing a letter, of November 5, from the Adjutant General, representing the necessity of a provision by the Post Office Department for franking letters passing to and from his office on public business. The Secretary's letter is in No. 149, II, folio 149, and the Adjutant General's on folio 147. According to the indorsements and the record in Committee Books Nos. 186 and 191, the letters were referred, on November 21, to Mr. [David] Ramsay, Mr. [Abner] Nash and Mr. [Richard] Peters; a report was delivered November 22, which, was, on November 25, "recommitted to bring in an ordinance." On December 6, the Adjutant General's letter was again referred to the same committee.

² This motion, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 19, III, folio 459. A note by Elias Boudinot says that it was taken up on Monday, 25th November, and ordered to lay over.

their respective Lines for the sums due to them for pay while in service and the depreciation thereon, and retained rations to the first day of March, 1781, all sums paid on the foregoing account to be allowed in part of the requisitions of Congress made prior to the 2d day of November, 1781"—be referred to the Superintendent of Finance to report.¹

MONDAY, NOVEMBER 25, 1782

Mr. Alexander Hamilton, a delegate for the State of New York, attended, and produced a commission under the great seal of the State, dated at Poughkeepsie, the 25 of October, 1782, which was read, and by which it appears, that on the 22 of July, 1782, the Hon. James Duane, William Floyd, John Morin Scott, Ezra L'Hommedieu and Alexander Hamilton, were appointed delegates to represent the said State for one year, from the first Monday in November, 1782.

THE PEOPLE of the State of NEW YORK by the Grace of God Free and Independent: To all to whom these presents shall come send Greeting. KNOW YE that we having inspected the Records remaining in the Secretary's office of our said State do find there a certain Commission in the words following to witt: "The people of the State of New York by the Grace of God Free and Independent: To all to whom these presents shall come send Greeting: Whereas our Senate and Assembly have on the twenty second day of July in this present year nominated and appointed the Honorable James Duane, William Floyd, John Morin Scott, Ezra L'Hommedieu and Alexander Hamilton Esquires Delegates to represent our said State in the United States of America in Congress assembled for one year from the first

¹ This order was entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

On this day, according to the indorsement, a letter of the same date from Ebenezer Hazard and James Bryson, asking an explanation of the act of December 12, 1780, was read and referred to Mr. [David] Ramsay, Mr. [Abner] Nash, and Mr. [Richard] Peters. It is in the *Papers of the Continental Congress*, No. 61, folio 127.

Also, a letter of the same date, from Captain J. Schreiber. It was referred to the Superintendent of Finance to report on a recommendation from the committee of the week which is indorsed upon the letter. The letter is in No. 78, XXI, folio 267.

Monday in November next, Now therefore know ye that in pursuance of the said Nomination and Appointment we have by these presents commissioned the said James Duane, William Floyd, John Morin Scott, Ezra L'Hommedieu and Alexander Hamilton Esquires with full power and authority to them the said James Duane, William Floyd, John Morin Scott, Ezra L'Hommedieu and Alexander Hamilton to represent our said State in the said Congress accordingly: In Testimony whereof we have caused these our Letters to be made patent and the Great Seal of our said State to be hereunto affixed: Witness our Trusty and Well beloved George Clinton Esquire Governor of our said State General and Commander in chief of all the Militia and Admiral of the Navy of the same. Given at Poughkeepsie the said twenty second day of July in the year of our Lord one thousand seven hundred and eighty two and of our Independence the seventh:'

ALL WHICH we have caused to be exemplified by these presents. IN TESTIMONY whereof we have caused these our Letters to be made patent and the Great Seal of our said State to be hereunto affixed: WITNESS our Trusty and Well beloved GEORGE CLINTON Esquire Governour of our said State, General and Commander in chief of all the Militia and Admiral of the Navy of the same: At Poughkeepsie this Twenty fifth day of October in the year of our Lord one thousand seven hundred and eighty two, and of our Independence the Seventh.

GEO: CLINTON.

[With the Great Seal appendant]

Passed the Secretary's Office 25th October 1782

ROBT HARPUR, *D. Secr^{ty}*.¹

On the report of a committee, consisting of Mr. [Hugh] Williamson, Mr. [James] Madison and Mr. [Richard] Peters, to whom was referred a motion of Mr. [James] Madison:

Resolved, That the Secretary for foreign affairs be, and he is hereby authorised to communicate to the ministers of foreign powers, who may reside near Congress, all such acts and resolutions of Congress, and all such articles of intelligence received by Congress, as he may judge proper, those only excepted which Congress may specially require to be

¹ The original is in the *Papers of the Continental Congress*, New York, *Credentials of Delegates*. It was entered in No. 179, *Record of Credentials*, and not in the Journal.

kept secret, [in which cases he shall make previous application to Congress.]¹

WAR OFFICE, Nov^r 23rd 1782.

SIR,

The request of Doctor Tucker referred to me involves three questions.

The first is whether he is entitled to half pay allowed to other retiring hospital officers of his rank—the second whether he is entitled to pay for his attendance on the hospital in Virginia, and the third what allowance will be made for his expences while attending the sick in Charlestown.

There cannot be a doubt with respect to the first. The resolves of Congress of the 17th of January 1781 fully secure to him the half pay allowed to other officers of his rank as he was not deranged until the 15th of May following.

On the second question I would observe that by the resolves of Congress passed May 15th, 1781, it is ordered that all officers of the Medical department appointed under the directorship of Doctor Olyphant who were then in captivity in South Carolina and Georgia, and had the charge of sick prisoners in those States be continued in their respective offices as heretofore—and be considered as vested with the same privileges and emoluments as they had enjoyed before their captivity, to extend no farther than to the troops and hospitals within the enemy's lines.

The Continental Hospitals on the first of July, 1781, removed from Charlestown to Williamsburg in Virginia. The hospital was there continued under the care of Doctor Tucker by order of the Marquis de la Fayette as the sick could not at that time be removed into the country. The Commander in chief, on his arrival in Virginia, directed the gentlemen in the Medical Department from South Carolina to do duty in the general hospital at Williamsburg. These are facts which appear from the enclosed papers.

With respect to the last question which relates to an allowance for the extraordinary expences while detained in Charlestown attending the hospital, I suppose they were necessarily great, but he has not rendered any account of them.

¹ This report, in the writing of Hugh Williamson, except the words in brackets, which are in the writing of Elias Boudinot, is in the *Papers of the Continental Congress*, No. 25, II, folio 139. The motion, in the writing of James Madison, of which the report embodies the substance, is in 36, I, folio 435. It was made November 21.

The resolution was also entered in the manuscript Secret Journal, Foreign Affairs.

On the whole of his request I beg leave to submit to the consideration of Congress the following draft of a resolve,

That Doctor Thomas T. Tucker, late a senior Surgeon of the hospital under the directorship of Doctor Olyphant, enjoy all the emoluments of his office from the date of his appointment to the time he retired from actual service in the hospital in Virginia, and that a reasonable compensation be made him for his extra expences while acting as senior Surgeon in Charlestown after its surrender.¹

Ordered, That a letter of the 25th November from the Secretary at War respecting one hundred seventy prisoners from Canada, chiefly women and children, expected in Town on the way to their several homes, be referred to the Superintendent of Finance and Secretary at War to take order.²

Resolved, That as it appears to Congress that the Honble Henry Laurens, Esq., Commissioner to the Seven United Provinces, was committed to the Tower of London not as an Enemy but a Traitor, and that ~~he was~~ afterwards ~~liberated~~ as Sir Guy Carleton declares, "He had been enlarged and discharged from all engagements without any condition whatever"; And as it is generally known that the conduct of Earl Cornwallis during his command has been remarkably cruel and barbarous, Congress are under no obligations to liberate any British Officer in return for the liberation of Mr. Laurens, much less an Officer of ~~Lord Cornwallis's character~~ whose ~~path has~~ foot steps have been stained by the blood of innocent Citizens; wherefore Congress cannot ratify the exchange of Lord Cornwallis proposed to be made by their Minister at the Court of Versailles.³

¹ This report is in the *Papers of the Continental Congress*, No. 151, folios 39-43. It is indorsed: Recommended that the secretary may include in the resolution all those in similar circumstances and to report a reasonable allowance for expenses while in Charlestown.

² This order was entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

³ This motion, in the writing of Hugh Williamson, is in the *Papers of the Continental Congress*, No. 19, III, folio 457. It is indorsed: "Motion of Mr. Williamson to postpone Mr. Madison's motion and take up the enclosed. Nov. 25, 1782. Got rid of by dividing the question. The motion of postponing Mr. M's motion lost, only six states being in affirmative." See *ante*, November 22, for Madison's motion.

On this day, according to the indorsement, a letter from General Washington, dated Head Quarters, November 19, was read, transmitting copy of information from Lieutenant Governor Bowen of Rhode Island. It was referred to Mr. [Samuel] Osgood, Mr. [Daniel] Carroll, Mr. [John] Rutledge. It is in No. 152, XI, folio 29.

Also, a letter of November 25, from the Secretary at War, inclosing an extract of a letter from the Commander in Chief, on the subject of the promotion of Colonel Day-

[TUESDAY, NOVEMBER 26, 1782]

[Mr John Rutledge's and Mr David Ramsay's Motion.]

R. That the Min^r Plenipo: of the United States at the Court of Versailles, be and he is hereby instructed and authorised to agree to a full and absolute exchange of Lieut. Gen^l. Earl Cornwallis for the Hon^{ble} Henry Laurens Esq^r in case he shall accept and undertake the appointment of a Com^r for negotiating peace with G. Britain.¹

WEDNESDAY, NOVEMBER 27, 1782

Mr. W[illiam] Floyd, a delegate for New York, attended and took his seat.

The committee, consisting of Mr. [David] Ramsay, Mr. [Abner] Nash and Mr. [Richard] Peters, to whom was referred a letter of 20 from the Secretary at War, reported the draught of a supplemental ordinance for regulating the Post Office, which was read a first time:

~~A—Supplementary~~ An Ordinance for amending an Ordinance for regulating the Post Office of the United States of America.

Whereas since passing the ordinance for regulating the Post Office of the United States of America and the supplement thereto, it hath been represented to the United States in Congress assembled that great inconveniences arise from the privilege of franking letters not being extended to the several officers at the Heads of Departments in and attached to the Armies of the said United States, who have frequent occasions to correspond on the business of their respective Departments—

Be it ordained by the United States in Congress assembled, and it is hereby ordained by authority of the same, That all letters in public service to and from the Inspector General, Adjutant General and Quartermaster General of the Army of the United States, the ton and others to the rank of Brigadier, which was referred to Mr. [Daniel] Carroll, Mr. [Samuel] Osgood, Mr. [Richard] Peters. The Secretary's letter is in No. 149, I, folio 663 and that of Washington on folio 661.

¹ This motion, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 36, I, folio 443. It was withdrawn on this date, as the indorsement shows.

On this day, according to the indorsement, a letter of October 21 from the Senate and General Assembly of Massachusetts was read and referred to the Grand Committee and Tuesday next assigned. It is in No. 65, II, folio 201.

Director General of the Hospitals of the said United States, the Chief Physician, the Commissary of Prisoners, the Judge Advocate and the Paymaster General of the said Army shall pass free of postage.

And be it farther ordained, by the authority aforesaid that the like priviledges be and they are hereby extended to the officers at the heads of the like Departments in any Separate Army of these United States.

~~And be it further ordained by the authority aforesaid, that all persons having by virtue hereof the priviledge of franking letters shall Deposit with the Postmaster General or his Deputy at the place where the several offices and persons aforesaid shall or may respectively reside an impression of the seals with which their letters are usually sealed, and also their respective Signatures, and the letters shall be endorsed "on public Business" and the whole of the Supercriptions written in the proper handwritings of the persons so as aforesaid priviledged who shall also sign their names on such supercriptions to the End that comparison being made with their seals and signatures deposited as aforesaid all Counterfeits and Impositions may be detected.~~

And be it farther ordained, by the authority aforesaid, That the Postmaster General shall once in every six months render an account to Congress of the franked letters passing thro' the different offices under his direction, and of the sums to which the postage would have amounted if the same had been charged.

And be it farther ordained by the authority aforesaid that so much of the ordinance of the eighteenth of October last which directs the Postmaster General or his Deputies to furnish extraordinary expresses be and the same is hereby repealed.

Done by the United States in Congress assembled the Day
of Anno Domini 1782 and in the Seventh year of our Independence.¹

Ordered, That Monday next be assigned for the second reading.

Ordered, That Mr. [James] Duane and Mr. [Ezra] L'Hommedieu have leave of absence.

¹ This report, in the writing of Richard Peters, is in the *Papers of the Continental Congress*, No. 59, III, folio 369. The indorsement shows that Monday, December 2, was assigned for a second reading; that on December 2 it was recommitted; a new ordinance was reported December 4, read and "Friday next [December 6] assigned for the second reading."

On the report of a committee, consisting of Mr. [Samuel] Osgood, Mr. [Daniel] Carroll, and Mr. [John] Rutledge, to whom was referred a letter of the 19th from the Commander in Chief, enclosing a paper endorsed, "Information of Christopher Osgood"—

Resolved, That the Commander in Chief be and he is hereby empowered and directed, to take immediate measures for apprehending and securing Luke Knoulton, of Newfane, and Samuel Wells, of Brattleborough, ~~both in the State of Vermont so called~~ [both of the district of country commonly called the New Hampshire Grants, west of Connecticut river,] and such others within the ~~limits~~ [district] aforesaid as there may be good reason to apprehend have been concerned with the said Knoulton and Wells in a dangerous correspondence and intercourse with the enemy; [and that the Commander in Chief be authorised to communicate this resolution, and the information on which it is grounded, to such persons exercising authority in the district aforesaid, and at such time as he shall think proper.]¹

¹ This report, in the writing of Samuel Osgood, except the part in brackets which is in Elias Boudinot's writing, is in the *Papers of the Continental Congress*, No. 19, III, folio 397. Another paragraph was postponed and passed December 3. See under that date. The resolution was entered only in the manuscript Secret (Domestic) Journal and in Secret Journal No. 8, A.

The following motion, in the writing of James Duane, and undated, is in No. 36, IV, folio 281:

That Copies be transmitted to the Commander in Chief, and that he be authorised and directed to take effectual measures to prevent ~~the dangerous~~ all communications ~~which are carrying on~~ unless under his own authority between the ~~western part of~~ the district called the Grants and the British Government of Canada and will effectually to secure these our Northern Frontiers against the open assaults as well as the secret practices of the Enemy.

[Motion Passed Nov. —, 1782.]

That the Superintendent of Finance report to Congress the causes that impede the execution of the resolution of _____ for settling the public accounts and what progress has been made in the same.¹

The Superintendent of Finance to whom was referred the Letter of Captain J. Schreiber of the 22nd November 1782 prays Leave to report,

That upon an application of the Paymaster General dated the ninth Instant, for Money to discharge a Warrant granted by the Honorable Secretary at War on him, in Favor of Cap^t Schreiber for his Pay from the first Day of May to the first Instant the said Superintendent declined to furnish Money for that purpose, because he conceives it of the utmost importance to delay such payment until the State of the Treasury will admit of equal Sums being granted to every officer in the Service; Their Claims on the Public are all founded in the same Justice and on the same principles. If particular circumstances of any Individual induce a Disbursement of the public Money the plea of necessity and peculiarity of Circumstances, will be urged by all, and if not gratified the Charge of Injustice will follow.²

MONDAY, DECEMBER 2, 1782

According to order, the draught of the supplemental ordinance for regulating the Post Office, was taken up for a second reading; and after debate,

Ordered, That it be re-committed.

A motion was made by Mr. [David] Howell, seconded by Mr. [Jonathan] Arnold, that it be recommended to the several states, to settle with and satisfy the officers and

¹ This motion, in the writing of Elias Boudinot, is in the *Papers of the Continental Congress*, No. 36, I, folio 441.

² This report is in the *Papers of the Continental Congress*, No. 137, II, folio 43. The indorsement shows that it was delivered on November 25, and on November 27 referred to Mr. [Alexander] Hamilton, Mr. [Richard] Peters and Mr. [Samuel] Osgood.

On this day, according to the indorsement, a letter of November 26, from Lieutenant Colonel Cambray, was referred to Mr. [Alexander] Hamilton, Mr. [Richard] Peters, Mr. [Samuel] Osgood. It is in No. 78, VI, folio 163.

men of such temporary corps of troops as may have been raised within them respectively, with the approbation of Congress, on account of their pay and emoluments during the time of their actual service, and the depreciation thereon, and charge the same to the United States.¹

A motion was made by Mr. [Thomas] McKean, seconded by Mr. [Alexander] Hamilton, that the consideration thereof be postponed:

And on the question for postponing, the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	ay	} ay	Mr. McKean,	ay	} ay
White,	ay		Wharton,	ay	
<i>Massachusetts,</i>			<i>Virginia,</i>		
Mr. Osgood,	ay	} *	Mr. Jones,	ay	} ay
<i>Rhode Island,</i>				Madison,	
Mr. Arnold,	no	} no	<i>North Carolina,</i>		
Howell,	no		Mr. Nash,	ay	} ay
<i>New York,</i>			Williamson,	ay	
Mr. Floyd,	ay	} ay	Blount,	ay	
Hamilton,	ay		<i>South Carolina,</i>		
<i>New Jersey,</i>			Mr. Rutledge,	ay	} ay
Mr. Boudinot,	ay	} ay	Ramsay,	ay	
Clark,	ay		Mr. Izard,	ay	
<i>Pennsylvania,</i>					
Mr. Fitzsimmons,	ay	} *			

So it was resolved in the affirmative.

Ordered, That the order of the day, for electing two judges for the court of appeals, be postponed to Thursday next.

Ordered, That a letter of 29th November from the Agent of Marine, on a proposal of Captain J. P. Jones to be sent in pursuit of marine knowledge to make the approaching campaign with the Marquis de

¹ This motion, in the writing of David Howell, is in the *Papers of the Continental Congress*, No. 36, I, folio 447.

Vaudreuil be referred to Mr. [Samuel] Osgood, Mr. [James] Madison and Mr. [Alexander] Hamilton.¹

TUESDAY, DECEMBER 3, 1782.

The Secretary for foreign affairs having assigned to Congress satisfactory reasons for relinquishing his office, and having requested permission to resign:

Resolved, That Thursday, the 19 instant be assigned for electing another person to fill the office of Secretary for foreign affairs; and that Mr. Livingston be informed that Congress do approve of his proposal of continuing to perform the duties of the office until a person shall be appointed to succeed him.²

On the report of a committee, consisting of Mr. [Alexander] Hamilton, Mr. [Richard] Peters and Mr. [Samuel] Osgood, to whom was referred a letter of the 22 November from the Superintendant of finance and Secretary at War:³

Resolved, That after the last day of December instant in lieu of the rations hitherto allowed to the officers of the army, including those for servants, they shall be allowed subsistence money at the rate of four dollars per month for each ration; provided, that where circumstances in any case shall not permit the payment of such subsistence money, they shall draw their rations as heretofore.

Resolved, That after the fore-mentioned period, in lieu of the pay and rations allowed to the officers of the hospital

¹ This order was entered only the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

On this day, according to the indorsement, was read a memorial of the officers of Massachusetts to the legislature of that State relative to their pay. It is in the *Papers of the Continental Congress*, No. 65, II, folio 209. According to Committee Book No. 186, a letter dated December 2, from the Secretary for foreign affairs, desiring leave to resign, was received this day, and committed to Mr. [Thomas] McKean, Mr [John] Rutledge, and Mr. [Samuel] Osgood, who reported verbally.

² This resolution was also entered in the manuscript Secret Journal, Foreign Affairs.

³ The joint letter of the Superintendent of Finance and Secretary at War is in the *Papers of the Continental Congress*, No. 137, II, folio 35.

department, including rations for servants, they shall be entitled to the following monthly pay and subsistence; provided in like manner, that where the said subsistence money shall not be paid, they shall be entitled to draw an equivalent number of rations, at the rate of four dollars for each ration per month, viz.

The director, one hundred and two dollars pay and sixty dollars subsistence.

The deputy director and physician, each one hundred dollars pay and forty-eight dollars subsistence.

The surgeons, each ninety dollars pay and forty dollars subsistence.

Apothecary and purveyor, each ninety-two dollars pay and thirty-two dollars subsistence.

Deputy apothecary and deputy purveyor, each fifty-nine dollars pay and sixteen dollars subsistence.

Mates, each forty-two dollars pay and twelve dollars subsistence.

Stewards, each thirty-one dollars pay and eight dollars subsistence.

Ward masters, each twenty-one dollars pay and eight dollars subsistence.¹

Resolved, That the supreme executives of the states of New Hampshire, Massachusetts, Connecticut and New York, be furnished ~~by the Commander in Chief at such time as he shall think proper~~ with a copy of Christopher Osgood's declaration, in order that they may have due information of the treasonable practices ~~of their subjects which are~~ with which some of their subjects are charged, no less dangerous to their own safety than that of the United States. [And that the executive of the State in which the said Christopher Osgood may reside or be, be requested to take such measures for the appear-

¹ This report, in the writing of Alexander Hamilton, is in the *Papers of the Continental Congress*, No. 21, folio 309.

ance of the said Christopher Osgood at any trial to be had of the persons mentioned in his declaration, as to the said executive may seem proper.]¹

WEDNESDAY, DECEMBER 4, 1782

On the report of a committee, consisting of Mr. [Samuel] Osgood, Mr. [James] Madison and Mr. [Alexander] Hamilton, to whom was referred a letter of 29 November from the agent of marine, enclosing a copy of a letter of the same date, to him, from Captain J. P. Jones;

in which the latter requests permission of Congress to serve the ensuing campaign with his Excellency the Marquis de Vaudreuil, report the following resolution:

Resolved, That the agent of marine be informed, that Congress [having a high sense of the merit and services of Captain J. P. Jones, and] being disposed to favour the zeal manifested by him to acquire improvement in the line of his profession, do grant the permission which he requests; and that the said agent be instructed to recommend him accordingly to the countenance of his Excellency the Marquis de Vaudreuil.

~~[do authorize the said agent to act therein as shall be agreeable to the wishes of Captain Jones and at the same time consistent with the views of the Admiral.]²~~

On motion of Mr. Fitzsimmons [Alexander] Hamilton, seconded by Mr. ~~Hamilton~~ [David] Howell,

Resolved, That a committee be appointed to confer with a committee of the legislature of Pennsylvania, relative to the subjects of their late memorial to Congress: the members, Mr. [John] Rutledge, Mr. [James] Madison, and Mr. [Alexander] Hamilton.

¹ This resolution, in the writing of Samuel Osgood, except the part in brackets, which is in Charles Thomson's writing, is in the *Papers of the Continental Congress*, No. 19, III, folio 397. See *ante*, November 27. The resolution was entered only in the manuscript Secret (Domestic) Journal and in Secret Journal, No. 8, A.

² This report, in the writing of James Madison, except the parts in brackets, which is in Alexander Hamilton's writing, is in the *Papers of the Continental Congress*, No. 19, III, folio 303. The letter of the Agent of Marine is in No. 137, II, folio 47.

The committee, consisting of Mr. [Alexander] Hamilton, Mr. [Richard] Peters, and Mr. [Samuel] Osgood, to whom were referred a report of the Superintendent of finance, on a letter of 22 November, 1782, from Captain Schreiber, and a letter of 25 of the same month from Lieutenant Colonel Cambray; report,

“That although they consider the situation of foreigners in the service of this country, remote from any resources which they may have in their own, and destitute of any competent provision here, as involving a peculiar hardship, and requiring if possible some discrimination in their favour; yet in the present embarrassed state of the public finances, they cannot ~~recommend~~ advise any measure for their relief, which may derange the general plans of the Superintendent of finance; and they therefore recommend, that the matter may be left to his discretion, to act therein as he may conceive most proper.”¹

Resolved, That Congress agree to the said report.

The committee, consisting of Mr. [Daniel] Carroll, Mr. [Samuel] Osgood, and Mr. [Richard] Peters, to whom was referred a letter of 29 October, from the Secretary at War, on the subject of future promotions of colonels to the rank of brigadiers; report,

That for the purpose of promotions of colonels or lieutenant colonels commandant, the army of the United States shall be considered as classed in the following divisions; the eastern, middle, and southern. The troops of New Hampshire, Massachusetts, Rhode Island, and Connecticut, shall form the eastern; those of New York, New Jersey, Pennsylvania, Delaware, and Maryland, the middle; and those of Virginia, North Carolina, South Carolina, and Georgia, the southern division:

¹ This report, in the writing of Alexander Hamilton, is in the *Papers of the Continental Congress*, No. 19, V, folio 299.

That whensoever it shall be deemed necessary for the service, to appoint brigadiers in any state or states where the number of troops in the field are sufficient to form one or more brigades, the brigadiers shall be appointed from the senior colonels or lieutenant colonels commandant in the lines of such states; and when brigadiers shall be wanted to command brigades within either of the divisions composed of the troops of such states, who have not individually numbers in the field sufficient to form a brigade, the brigadiers shall be appointed from the senior colonels or lieutenant colonels commandant in such brigades.

On the question to agree to this report, the yeas and nays being required by Mr. [Abraham] Clark,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	no	} no	Mr. McKean,	ay	} ay
White,	no		Wharton,	ay	
<i>Massachusetts,</i>			<i>Virginia,</i>		
Mr. Osgood,	ay	} *	Mr. Madison,	ay	} *
<i>Rhode Island,</i>			<i>North Carolina,</i>		
Mr. Arnold,	no	} div.	Mr. Nash,	ay	} ay
Howell,	ay		Williamson,	ay	
<i>New York,</i>			Blount,	ay	
Mr. Floyd,	ay	} ay	<i>South Carolina,</i>		
Hamilton,	ay		Mr. Rutledge,	no	} ay
<i>New Jersey,</i>			Ramsay,	ay	
Mr. Boudinot,	no	} no	Izard,	ay	
Clark,	no				
<i>Pennsylvania,</i>					
Mr. Fitzsimmons,	ay	} ay			
Peters,	ay				

So the question was lost.

A motion was then made by Mr. [Samuel] Osgood, seconded by Mr. [John Taylor] Gilman, as follows:

Whereas it appears, that there are two brigades of troops of the Massachusetts line now commanded by colonels; therefore,

Resolved, That Colonel John Greaton, and Colonel William Shepard, the two senior colonels in the Massachusetts line of officers be, and hereby are, promoted to the rank of brigadiers general in the army of the United States.¹

And on the question to agree to the motion, the yeas and nays being required by Mr. [Samuel] Osgood,

<i>New Hampshire,</i>			<i>Delaware,</i>	
Mr. Gilman,	ay	} ay	Mr. McKean,	no
White,	ay		Wharton,	no
<i>Massachusetts,</i>			<i>Maryland,</i>	
Mr. Osgood,	ay	} *	Mr. Carroll,	ay
<i>Rhode Island,</i>				<i>Virginia,</i>
Mr. Arnold,	ay	} ay	Mr. Madison,	no
Howell,	ay		<i>North Carolina,</i>	
<i>New York,</i>			Mr. Nash,	no
Mr. Floyd,	no	} no	Williamson,	ay
Hamilton,	no		Blount,	ay
<i>New Jersey,</i>			<i>South Carolina,</i>	
Mr. Boudinot,	no	} no	Mr. Rutledge,	no
Clark,	no		Ramsay,	ay
<i>Pennsylvania,</i>			Izard,	no
Mr. Fitzsimmons,	no	} no		
Peters,	no			

So the motion was lost.

The committee, consisting of Mr. [David] Ramsay, Mr. [Abner] Nash, and Mr. [Richard] Peters, to whom was re-committed the draught of the supplemental ordinance for regulating the Post Office, reported the draught of an ordinance for amending the ordinance for regulating the Post Office of the United States, which was read a first time:

Ordered, That Friday next be assigned for the second reading.

¹ This motion, in the writing of Samuel Osgood, is in the *Papers of the Continental Congress*, No. 36, I, folio 451.

THURSDAY, DECEMBER 5, 1782.

According to the order of the day, Congress proceeded to the election of two judges for the court of appeals in cases of capture; and the ballots being taken, Mr. John Lowell, and Mr. George Read were elected, the former having been nominated by Mr. [Samuel] Osgood, and the latter by Mr. [Thomas] Fitzsimmons.

Congress resumed the consideration of the report of the committee on the report of a committee on Governor Clinton's letter of the 16 of September, &c. as entered on the journal of the 14 of November last; and the same being postponed,

A motion was made by Mr. [Thomas] McKean, seconded by Mr. [Alexander] Hamilton, in the words following:

Whereas it appears to Congress, by authentic documents, that the people inhabiting the district of country on the west side of Connecticut river, commonly called the New Hampshire Grants, and claiming to be an independent State, in contempt of the authority of Congress, and in direct violation of their resolutions of the 24 of September, 1779, and of the 2 of June, 1780, did, in the month of September last, proceed to exercise jurisdiction over the persons and properties of sundry inhabitants of the said district, professing themselves to be subjects of, and to owe allegiance to the State of New York, by means whereof divers of them have been condemned to banishment, not to return on pain of death and confiscation of estate; and others have been fined in large sums and otherwise deprived of property; therefore,

Resolved, That the said acts and proceedings of the said people, being highly derogatory to the authority of the United States, and dangerous to the Confederacy, require the immediate and decided interposition of Congress, for the protection and relief of such as have suffered by them, and for preserving peace in the said district, until a decision shall

be had of the controversy, relative to the jurisdiction of the same:

That the people inhabiting the said district claiming to be independent, be, and they are hereby, required, without delay, to make full and ample restitution to Timothy Church, ~~Charles~~ Timothy Phelps, Henry Evans, William Shattuck, and such others as have been condemned to banishment and confiscation of estate, or have otherwise been deprived of property since the first day of September last, for the damages they have sustained by the acts and proceedings aforesaid; and that they be not molested in their persons or properties, on their return to their habitations in the said district:

That the United States will take effectual measures to enforce a compliance with the aforesaid resolutions, in case the same shall be disobeyed by the people of the said district:

That no persons holding commissions under the State of New York, or under the people of the said district claiming to be independent, exercise any authority over the persons and properties of any inhabitants in the said district, contrary to the forementioned resolutions of the 24 of September, 1779, and the 2 of June, 1780:

That a copy of the foregoing resolutions be transmitted to Thomas Chittenden, esq. of Bennington, in the district aforesaid, to be communicated to the people thereof.¹

A motion was made by Mr. [David] Howell, seconded by Mr. [Abraham] Clark, to strike out the following clause: "that the United States will take effectual measures to

¹ This motion, in the writing of Alexander Hamilton, is in the *Papers of the Continental Congress*, No. 36, I, folio 479.

The following undated motion, in the writing of Hugh Williamson, is in No. 36, II, folio 89; it was negatived:

That the Secretary at War take order for causing to be delivered to Thomas Chittenden, Esq., the late Resolutions respecting the Inhabitants on the District of Country call'd the New Hampshire Grants west of Connecticut River, and that he take measures to inform himself particularly relative to the disposition of the said Inhabitants, their views and designs, and communicate such Information to Congress.

enforce a compliance with the aforesaid resolutions, in case the same shall be disobeyed by the people of the said district."

A motion was made by Mr. [James] Madison, seconded by Mr. [Thomas] McKean, that the question for striking out the clause be postponed until a question is taken on a motion for amending a previous part of the motion, by striking out the words "and dangerous to the confederacy, require the immediate and decided interposition of Congress," and in lieu thereof inserting "interposed in pursuance of the act passed on the day of by the State of New Hampshire, and the act passed on the day of by the State of New York, two of the states claiming the same, and for the purpose of preserving the peace and interests of the confederacy, require immediate and effectual measures:"

And on the question for postponing, the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	no	} no	Mr. McKean,	ay	} ay
White,	no		Wharton,	ay	
<i>Massachusetts,</i>			<i>Virginia,</i>		
Mr. Osgood,	ay	} *	Mr. Jones,	ay	} ay
<i>Rhode Island,</i>			Madison,	ay	
Mr. Arnold,	no	} no	<i>North Carolina,</i>		
Howell,	no		Mr. Nash,	ay	} ay
<i>New York,</i>		Williamson,	ay		
Mr. Floyd,	ay	} ay	Blount,	ay	
Hamilton,	ay		<i>South Carolina,</i>		
<i>New Jersey,</i>			Mr. Rutledge,	ay	} ay
Mr. Boudinot,	ay	} div.	Ramsay,	ay	
Clark,	no		Izard,	ay	
<i>Pennsylvania,</i>					
Mr. Fitzsimmons,	ay	} ay			
Peters,	ay				

So the question was lost.

On the question, shall the clause moved to be struck out stand? the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	ay	} ay	Mr. McKean,	ay	} ay
White,	ay		Wharton,	ay	
<i>Massachusetts,</i>			<i>Virginia,</i>		
Mr. Osgood,	ay	} *	Mr. Jones,	ay	} ay
<i>Rhode Island,</i>				Madison,	
Mr. Arnold,	no	} no	<i>North Carolina,</i>		
Howell,	no		Mr. Nash,	no	} ay
<i>New York,</i>			Williamson,	ay	
Mr. Floyd,	ay	} ay	Blount,	ay	
Hamilton,	ay		<i>South Carolina,</i>		
<i>New Jersey,</i>			Mr. Rutledge,	no	} ay
Mr. Boudinot,	no	} no	Ramsay,	ay	
Clark,	no			Izard,	ay
<i>Pennsylvania,</i>					
Mr. Fitzsimmons,	ay	} ay			
Peters,	ay				

So it was resolved in the affirmative.

The motion for amending the former part of the original motion, as before recited, was then made by Mr. [James] Madison, seconded by Mr. [Thomas] McKean:

And on the question to agree to the amendment, the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>			<i>New Jersey,</i>		
Mr. Gilman,	ay	} div.	Mr. Boudinot,	ay	} div.
White,	no		Clark,	no	
<i>Massachusetts,</i>			<i>Pennsylvania,</i>		
Mr. Osgood,	no	} *	Mr. Fitzsimmons,	ay	} ay
<i>Rhode Island,</i>				Peters,	
Mr. Arnold,	no	} no	<i>Delaware,</i>		
Howell,	no		Mr. McKean,	ay	} ay
<i>New York,</i>			Wharton,	ay	
Mr. Floyd,	ay	} ay	<i>Maryland,</i>		
Hamilton,	ay		Mr. Carroll,	ay	} *

<i>Virginia,</i>			<i>South Carolina,</i>		
Mr. Jones,	ay	} ay	Mr. Rutledge,	ay	} ay
Madison,	ay		Ramsay,	ay	
<i>North Carolina,</i>			Izard,	ay	
Mr. Nash,	ay	} ay			
Williamson,	ay				
Blount,	ay				

So the amendment was lost.

On the question to agree to the original motion, the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>			<i>Delaware,</i>		
Mr. Gilman,	ay	} ay	Mr. McKean,	ay	} ay
White,	ay		Wharton,	ay	
<i>Massachusetts,</i>			<i>Maryland,</i>		
Mr. Osgood,	ay	} *	Mr. Carroll,	ay	} *
<i>Rhode Island,</i>				<i>Virginia,</i>	
Mr. Arnold,	no	} no	Mr. Jones,	ay	} ay
Howell,	no		Madison,	ay	
<i>New York,</i>			<i>North Carolina,</i>		
Mr. Floyd,	ay	} ay	Mr. Nash,	no	} ay
Hamilton,	ay		Williamson,	ay	
<i>New Jersey,</i>			Blount,	ay	
Mr. Boudinot,	no	} no	<i>South Carolina,</i>		
Clark,	no		Mr. Rutledge,	no	} ay
<i>Pennsylvania,</i>			Ramsay,	ay	
Mr. Fitzsimmons,	ay	} ay	Izard,	ay	
Peters,	ay				

So it was resolved in the affirmative.

FRIDAY, DECEMBER 6, 1782

On motion of Mr. [Hugh] Williamson, seconded by Mr. [Daniel] Carroll:

Whereas there is reason to suspect, that [as well the national character of the United States and the honor of Congress, as] the finances of the said states may be injured, and the public service greatly retarded, by some publications

that have been made concerning the ~~extent of our foreign loans~~ foreign affairs of said states:

Resolved, That a committee be appointed to enquire into this subject, and report what steps they ~~apprehend~~ conceive are necessary to be taken thereon ~~if they shall find that any are necessary~~.¹

According to the order of the day, the ordinance for amending the ordinance for regulating the Post Office of the United States was read a second time; and the question being put, shall this ordinance be read a third time, ~~passed~~ was lost.

Ordered, That a letter of 5 November, from the adjutant-general to the Secretary at War, be referred to a committee, and that the committee be instructed to consider the general subject of franks, in order to extend or restrain the privilege as they may find necessary.²

A motion was made by Mr. [Alexander] Hamilton, seconded by Mr. [John] Rutledge,

¹ This motion, in the writing of Hugh Williamson, except the part in brackets, which is in that of Elias Boudinot, is in the *Papers of the Continental Congress*, No. 36, I, folio 457. The indorsement shows that the committee was Mr. [Hugh] Williamson, Mr. [Daniel] Carroll, Mr. [James] Madison.

² The motion upon which the committee was appointed, in the writing of Hugh Williamson, is in the *Papers of the Continental Congress*, No. 59, III, folio 369. The Adjutant General's letter is in No. 149, II, folio 147. The committee, according to the indorsement, was Mr. [David] Ramsay, Mr. [Abner] Nash, Mr. [Richard] Peters. According to Committee Books Nos. 186 and 191, a report was delivered on December 10, and recommitted December 12.

The following undated motion, in the writing of Hugh Williamson, is in No. 36, II, folio 85:

~~That the Privilege of franking Letters be and the same is hereby extended to the Inspector General, the Adjutant General, the Director of the Hospitals, the Quarter master General, the Commissary of Prisoners and the paymaster General of the Army of the U. S., and that the same Privilege be and the same is hereby extended to the Officers of the Heads of the like departments in any separate army, all Letters to and from whom on public Business shall pass free of Postage shall have the Privilege of franking Letters on public service to all officers in their respective Departments and that all letters to those officers first above mentioned shall be free.~~

[That the Superintendent of finance be, and he is hereby directed to represent to the legislatures of the several states, the indispensable necessity for their complying with the requisitions of Congress, for raising one million two hundred thousand dollars, for paying a year's interest of the domestic debt of the United States, and two million dollars towards defraying the expences of the estimate for the ensuing year, and the inconveniencies, embarrassments and injuries to the public service, which will arise from the states individually making appropriations of any part of the said two millions of dollars, or of any other monies required by the United States in Congress assembled,] assuring them withal that Congress are determined to make the fullest justice to the public creditors an invariable object of their counsels and exertions:

That a deputation be sent ~~from Congress~~ to the State of Rhode Island ~~to inform that state of the projects which Congress have of loans and other supplies for the ensuing year~~ (for the purpose of making a full and just representation of the public affairs of the United States,) and of urging the absolute necessity of a compliance with the resolution of Congress of the 3d day of February, 1781, respecting the duty on imports and prizes, as a measure essential to the safety and reputation of these states.¹

When the question was about to be put, a division was called for by Mr. [David] Howell; and on the question to agree to the first part, as far as "exertions" inclusive, the yeas and nays being required by Mr. [Ralph] Izard:

Resolved, unanimously, in the affirmative, every member answering ay.

¹ This motion is in the *Papers of the Continental Congress*, No. 36, I, folios 483 and 485. The part in brackets is in the writing of John Rutledge. The rest is in the writing of Alexander Hamilton, except the words in parentheses, which are in James Madison's writing.

On the question to agree to the second part, "that a deputation," &c. to the end, the yeas and nays being required by Mr. [Ralph] Izard,

<i>New Hampshire,</i>			<i>Maryland,</i>	
Mr. Gilman,	ay	} ay	Mr. Carroll,	ay } *
White,	ay		<i>Virginia,</i>	
<i>Massachusetts,</i>			Mr. Jones,	ay } ay
Mr. Osgood,	ay	}	Madison,	ay }
<i>Rhode Island,</i>			<i>North Carolina,</i>	
Mr. Arnold,	no	} no	Mr. Nash,	ay } ay
Howell,	no		Williamson,	ay }
<i>New York,</i>			Blount,	ay }
Mr. Floyd,	ay	} ay	<i>South Carolina,</i>	
Hamilton,	ay		Mr. Rutledge,	ay } ay
<i>New Jersey,</i>			Ramsay,	ay }
Mr. Boudinot,	ay	} ay	Izard,	ay }
Clark,	ay			
<i>Pennsylvania,</i>				
Mr. Fitzsimmons,	ay	} ay		
Mifflin,	ay			

So it was resolved in the affirmative.

Resolved, That the deputation consist of three members, and that previous to their departure they confer with the Superintendent of finance, the Secretary at War and the Secretary for foreign affairs, who are hereby directed to communicate to them such information, from their respective departments, as may be most conducive to the end proposed: the members chosen, Mr. [Samuel] Osgood, Mr. [Thomas] Mifflin and Mr. [Abner] Nash.

TUESDAY, DECEMBER 10, 1782

Mr. [Daniel] Carroll laid before Congress a letter of 6, from the president of the senate and speaker of the house of assembly delegates of Maryland, informing him of his being chosen a delegate to Congress for the ensuing year.

SIR,

By Direction of the general Assembly we have the Pleasure to inform you that you are chosen a Delegate to Congress for the ensuing Year.

We have the honor to be Sir

Y^r most ob^t h^ble Serv^{ts}

GEO PLATER

Presid^t of the Senate

THO^s COCKEY DEYE

Speaker H. D.

ANNAPOLIS, Dec^r 6th, 1782.

hon: M^r CARROLL ¹

Pursuant to the order of the 18 of November last, the Superintendent of finance reported the draught of a letter to Thomas Barclay, esq. commissioner for settling the public accounts in Europe, containing instructions to the said commissioner; and the same being read,²

Ordered, That it be returned to the Superintendent of finance to be transmitted; the letter being as follows:

Office of Finance, December 5, 1782.

SIR,

On the 28th of May last the United States in Congress assembled resolved, that a commissioner be appointed to liquidate and finally settle the accounts of all the servants of the United States who have been intrusted with the expenditure of publick moneys in Europe. On the 29th of July last it was resolved, that the resolution of the 28th of May be reconsidered; and on motion it was ordered, that the said resolution be committed. On the 18th of November last, on the report of a committee, to whom upon a reconsideration the resolution of the 28th day of May last was referred,

¹ The original is in the *Papers of the Continental Congress*, Maryland, *Credentials of Delegates*. It was entered in No. 179, *Record of Credentials*, and not in the Journal.

² This paragraph and the order following were entered in both the Public and Secret (Foreign) Journals. The letter of instructions was entered only in the manuscript Secret Journal, Foreign Affairs.

it was resolved, that a commissioner be appointed by Congress with full powers and authority to liquidate and finally to settle the accounts of all the servants of the United States in Europe; and to commence and prosecute such suits, causes and actions as may be necessary for that purpose, or for the recovery of any property of the said United States in the hands of any person or persons whatsoever. That the said commissioner be authorised to appoint one or more clerks, with such allowance as he may think reasonable; and that the said commissioner and clerks respectively take an oath before some person duly authorised to administer an oath, faithfully to execute the trust reposed in them respectively. On the same day you was elected the commissioner; and it was resolved, that Congress would hereafter make adequate provision for the said commissioner, according to the nature and extent of the services which he shall perform. And on the 20th of November last it was resolved, that the superintendant of finance be directed to instruct the commissioner for settling the publick accounts in Europe to take proper measures for adjusting, without delay, the accounts of Mr. de Beaumarchais, or Roderique Hortales & Co., and to report such settlement to Congress, that order may be taken for payment of the balance, if any shall be justly due; and that in the mean time no further remittances or payments be made to Mr. de Beaumarchais or Roderique Hortales & Co. by virtue of any former resolutions of Congress.

Enclosed herein you will find a commission authorising you to act in this business; and I shall now endeavour to give you such explanations and directions as may be necessary for the accomplishment of it, consistently with the views and intentions of the United States in Congress.

You will undoubtedly remark, that no sum is fixed upon as the compensation for this duty, the reason of which is apparent, namely, that until the completion of it neither the nature nor extent can be perfectly known. This might perhaps have induced a monthly or annual stipend to any other commissioner; but as your other duties may and probably will occupy a part of your time and attention, which must nevertheless be indeterminate, so it follows, that no points could properly be assumed by which the reasonable extent of such a stipend could be known. I have every reason to believe, that it is the intention of Congress to make a generous allowance for the performance of this service, and I am persuaded that by attention, assiduity and the faithful exertion of your talents and abilities, you will merit their regard.

The appointment of your clerks, as well as the ascertaining their number and reward, are left to your discretion. You will on this occasion consult the principles of true economy, which dictate the employing as many persons as are capable of performing the service, and no more; the taking care that those employed are capable of performing the business committed to them; and the obtaining such a number of such persons on the cheapest terms for which they can be procured. But the worst economy in the world is to employ improper men. That you may be enabled to form a judgment of the talents necessary to a clerk you will observe, that Congress in their ordinance of the 11th September, 1781, for regulating the treasury and adjusting the publick accounts, ordained and declared, that the clerks, the number of whom should be regulated by the Superintendent of finance, should be appointed by the comptroller. That it should be their duty respectively to examine all accounts which should

be committed to them by the comptroller, to correct all errors, and to note in writing what may appear exceptionable either as to the propriety of the charges, or the validity of the vouchers; and to transmit the accounts, with his remarks, to the auditor: and that the party for himself, and the clerk on behalf of the publick, should be heard before the auditor. From the nature of the commission intrusted to you it follows, that you must both commit the account to the clerk, and afterwards audit it, as well as finally determine on and adjust it; which last is done here by the comptroller, except in cases where the appointment of a commissioner has been necessary, with authorities similar to yours. It is to be apprehended, that the accounts will in many instances be exhibited to you informally; and as it is not only useful in the first settling of complicated accounts to adhere to settled forms, but absolutely necessary to the clear and easy understanding of them after they are settled, so it will frequently become necessary to have the accounts restated, and all the vouchers to them numbered by your clerks. And although your own care and attention will always be requisite to detect and discover errors and frauds, yet so much will depend on the accuracy and abilities of the clerks in these investigations, that I cannot too strongly recommend to your attention the choice of able accomptants for that purpose.

With respect to the accounts of Mr. de Beaumarchais, much has been said, and therefore I might dispense perhaps with saying any thing; but as I have reason to believe, that whatever may have been the characters of the persons concerned, either for abilities or integrity, the business which has passed through their hands has not been well done, I must desire that these accounts undergo your strictest scrutiny. You will

probably find some other large accounts, which merit a like attention. In every such case, the observations made here will be equally applicable. You are too well acquainted with mercantile business not to know when, and how, and what commissions are chargeable on a transaction. I believe that knowledge and information on this subject will be found very necessary. They will be indispensable should it be attempted to charge several commissions on the same thing, whether it be done openly as such, or covertly as brokerage, factorage and the like, or still more covertly by an increase of original price. Hence, therefore, it will be found necessary to consider well the original prices; and it is much to be lamented that samples of the articles cannot be laid before you; because many have been received of a quality not only base, but despicable. It is not possible at this distance of time and place to ascertain by whom such articles were purchased; and indeed many of those which have been shipped never arrived. Under such circumstances it becomes your duty to require proof of the quality of such articles as appear charged to the United States; and the idea will naturally suggest itself, that the character of the party making the charge will influence the necessity of such proof, just as the validity of the proof itself will be influenced by the character of the witnesses. Had these transactions been merely confined to the purchase and delivery of goods, they might perhaps easily have been investigated; but they extend themselves to many other things, among which is the transportation and expence incident to it. Under this head two objects present themselves immediately to view: first, whether due care was taken in the modes of transportation adopted; and secondly, whether the expence has been reason-

able or exorbitant. With respect to the latter, it will certainly be your duty to correct improper or exorbitant charges. But in the former case your conduct must be directed by circumstances in their nature so various as to admit of no prescribed rule; and therefore I can only recommend it to you to consult the interests of the United States as far as the principles of justice will permit. I know it is unnecessary to tell you that the delivery of goods purchased and transported should be shown before the charges are admitted; but I must desire that the evidence on this subject may be so clear and plain as to enable us to call the receivers of them to account. Cases will doubtless occur of loss by the accidents of the sea, and by enemies: these also should be clearly proved, and the causes as much as possible investigated.

Your commission will entitle you to aid and protection in the execution of the duties committed to you; and you will make the necessary applications on that subject to the proper persons whenever circumstances shall require. A primary object will be, to discover what sums have at any time or times been paid to the use of the United States. These can, I suppose, be discovered, and the names of the persons to whom they have been paid, although it is possible that in certain cases the person *by* whom they have been paid will not be known to you. The first account you form will be a general one, under the title of loans and subsidies obtained in Europe on account of the United States. The debit of this account you may leave in blank, but the credit side will consist of the sums paid to the use of the United States, and the persons to whom they were paid. Every of these persons will, of course, be debited in particular accounts for the respective sums so credited. These sums, then, they

are to account for; and where they have paid them over to others, such payments are again to be accounted for, until they are traced to a final appropriation, which will be of articles purchased for, or services rendered to, the United States. In the course of this investigation, however, it may happen, that in some case of payment by one to another the receiver shall not account properly, on which the question will arise, how far the payment is to operate a discharge to the party by whom it was made. This question admits of so many modifications, according to the varieties of possible circumstances, that no provision can be made which will be applicable to all. I have therefore thought it best to enclose for your perusal the instructions¹ on this subject to commissioners appointed for settling the old accounts of the civil departments. You will govern yourself by the spirit of these instructions according to circumstances as they arise.

I have already observed, that the final appropriation of moneys must be traced to articles purchased and services rendered; but such a general distinction

¹ A copy of this letter is in the *Papers of the Continental Congress*, No. 137, II, folio 83, as follows:

Office of Finance, 3^d October, 1782.

SIR,

In the course of the business committed to your care a doubt will naturally enough arise, how far payments to deputies in a department shall discharge the principal. I think it proper therefore to give you my sentiments.

When of two officers appointed by Congress, the one is from the nature of his office to receive money from the other, in such case, the payment on publick account, and for the purposes of such office, must finally discharge the party paying. In all other cases, the advances made should be carried (in the first instance) to the credit of the person who made them, and be charged to the receiver. But in any case where there shall have been a default, the amount thereof must be recharged to the immediate superiour of the defaulter; and if it be still unaccounted for and unpaid by him, then it must be recharged to his immediate superiour; and so on, until it finally stand as a charge against some person appointed by Congress; and then in the last resort, Congress (who are alone competent to it) will determine upon a consideration of all circumstances, whether the principal shall be held to pay the United States, or whether he shall be finally discharged.

would not be sufficiently clear in the stating of accounts: you will place this final appropriation, therefore, under one or other of these following general heads.

1. *Salaries and Expences of Publick Ministers, Commissioners and Agents.* In this account you will charge all moneys advanced to any publick servants of the United States in Europe, on account of their salaries or expences.

2. *Cloathier General's Department.* In this account you will charge every article of cloathing which may have been purchased.

3. *Commissary of Military Stores Department.* In this account you will charge all arms, ammunition and the like.

4. *Quartermaster General's Department.* In this you will charge tents, sheet tin for camp kettles, and other articles properly belonging to that department.

5. *Marine Department.* In this you will charge all moneys expended in building or buying ships of war and fitting them out, with the incidental charges; also naval stores purchased for the United States, and the like.

6. *Hospital Department.* In this you will charge all instruments, medicines, &c. &c. appertaining to that department.

7. *Merchandise General.* In this you will charge such articles of stores as do not fall within the second, third, fourth, fifth and sixth heads, if any such there be, and also any articles which you shall be doubtful as to the account they ought to be carried to.

8. *Transport Service.* In this you will charge the purchase, freightment, hire, insurance and the like, of ships or vessels for the purpose of bringing any articles to America.

9. *Contingent Services.* In this you will charge the expence of land transportations, expresses, storages, wharfages, and other like articles; also all those things which do not fall properly under some other general head.

10. *Prisoners and Americans in Europe.* In this you will charge all moneys paid for or to American prisoners, or other Americans, taking care so to designate and specify these charges, and the parties, as that those who are able may be called on for repayment. The names and usual places of abode will, so far as they are attainable, be of importance.

11. *Foreign Officers.* In this you will charge all sums paid or advanced to foreign officers, coming to or returning from America.

12. *Interest of Debts.* In this you will charge all sums paid on the interest bills of exchange issued from the several loan offices, and any other interest moneys which may have been paid.

13. *Bills of Exchange.* In this you will charge all sums paid on bills of exchange drawn by order of Congress.

It is not improbable that in the course of your business you may find it necessary to raise some other such general accounts; and if so, you will raise them accordingly. You will take care to attend strictly to the propriety of all charges made, and to the validity of the vouchers by which they are supported. You will examine very particularly into the accounts of armed vessels fitted out in Europe on account of the United States, especially of those wherein any individuals shall appear to have been interested. And you will bring those persons to account into whose hands any prizes or moneys for the sales of prizes may have come;

so that justice may be done as well to the publick as to the captors concerned therein.

Whenever you finally settle an account, you will take care to be possessed of the several vouchers, which, together with the account, are to be kept in your consular office until farther orders; but you will transmit quadruplicate copies of the several general accounts by safe conveyances as soon as possible.¹

The Committee [Mr. James Duane, Mr. James Madison and Mr. Daniel Carroll] to whom was referred the memorial of S. Metcalf &c. report that the same be handed to the office of Foreign Affairs.²

Resolved, That the Day of next be assigned for the Consideration of the several Resolutions and papers on the Journals and files of Congress respecting the district of Country Commonly known by the name of the New Hampshire Grants West of Connecticutt river and that the states of New York and New Hampshire and the people residing on said Grants be informed that Congress will then proceed to make their Final Determination respecting said Territory.³

The Committee of the Week [Mr. William Floyd, Mr. Jonathan Arnold, Mr. David Ramsay] report, on the petition of Bellamy Crawford praying for a settlement of his accounts for cloathing, rations and an allowance for his extraordinary expences in Charlestown that they are sensible his distresses are great, and his necessity pressing; that they cannot devise any mode for his particular relief without an infraction of established systematical arrangements. They, therefore, recommend that that part of his petition which relates to a settlement of his accounts be referred to the Superintendent of Finance and that part which relates to his cloathing, rations, subsist-

¹ This letter is in the *Papers of the Continental Congress*, No. 137, II, *Appendix*, folios 277-285. A copy is in No. 137, II, folios 73-82, and Morris's letter of transmittal is on folio 69. The letter to Barclay is printed in the *Diplomatic Correspondence of the American Revolution* (Wharton) VI, 115.

² This report, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 19, IV, folio 69. According to the indorsement, it was passed on this day.

³ This undated motion, in the writing of John Taylor Gilman, is in the *Papers of the Continental Congress*, No. 36, II, folio 81. Cf. Madison's notes for December 10, *post*.

ence and extraordinary expences while a prisoner in Charlestown to the Secretary at War.¹

The Committee of the Week [Mr. William Floyd, Mr. Jonathan Arnold, Mr. David Ramsay] Report,

That the memorial of Reyer Schermerhorn, requesting pay for a quantity of rum seized from him by order of Major Genl. Howe in the year 1780, be referred to the Superintendent of Finance to report thereon.²

WEDNESDAY, DECEMBER 11, 1782

On the application of the Secretary at War,

Ordered, That he have leave of absence to visit his family.³

On the report of a committee consisting of Mr. [Alexander] Hamilton, Mr. [James] Madison and Mr. [Thomas] Fitzsimmons,

Resolved, That the following letter be sent to the governor of Rhode Island and Providence Plantations, with the deputation appointed to proceed to that State:

Sir: Congress are equally affected and alarmed by the information they have received, that the legislature of your State, at their last meeting, have refused their concurrence in the establishment of a

¹ This report, in the writing of David Ramsay, is in the *Papers of the Continental Congress*, No. 32, folio 423. The indorsement shows that it was passed on this day. Crawford's petition, dated Philadelphia, December 6, 1782, is in No. 42, II, folio 160.

² This report, undated, in the writing of William Floyd, is in the *Papers of the Continental Congress*, No. 32, folio 421. The memorial of Reyer Schermerhorn, dated Philadelphia, December 5, 1782, is in No. 41, IX, folio 209, and its indorsement shows that it was referred to Superintendent of Finance on December 10, to report.

On this day, according to the indorsement, was read the letter of 5 from Baron Steuben. It was referred to Mr. [Alexander] Hamilton, Mr. [Abraham] Clark, Mr. [Ezekiel] Cornell. It is in No. 19, V, folio 553.

Also, a letter dated November 20, from Captain Le Chev. de Moyria. It is in No. 78, XVI, folio 337.

Also, a letter, undated, from the Secretary at War. It is in No. 149, II, folio 169.

Also, a letter from the Secretary at War, dated this day. It is in No. 149, II, folio 159.

Also, a letter from General Washington, dated Head Quarters, December 4. It is in No. 152, XI, folio 37.

³ The Secretary at War's letter is in the *Papers of the Continental Congress*, No. 149, II, folio 185.

duty on imports. They consider this measure as so indispensable to the prosecution of the war, that a sense of duty and regard to the common safety, compel them to renew their efforts to engage a compliance with it; and in this view they have determined to send a deputation of three of their members to your State, as expressed in the enclosed resolution. The gentlemen they have appointed will be able to lay before you a full and just representation of the public affairs, from which, they flatter themselves, will result a conviction of the propriety of their solicitude upon the present occasion. Convinced by past experience of the zeal and patriotism of the State of Rhode Island, they cannot doubt that it will yield to those urgent considerations which flow from a knowledge of our true situation. They will only briefly observe, that the increasing discontents of the army, the loud clamours of the public creditors, and the extreme disproportion between the current supplies and the demands of the public service, are so many invincible arguments for ~~a general~~ the fund ~~at the disposal of~~ recommended by Congress. They feel themselves unable to devise any other that will be more efficacious, less exceptionable or more generally agreeable, and if this is rejected, they anticipate calamities of a most menacing nature, with this consolation, however, that they have faithfully discharged their trust, and that the mischiefs which may follow, cannot be attributed to them.

A principal object of the proposed fund is, to procure loans abroad. If no security can be held out to lenders, the success of these must necessarily be very limited. The last accounts on the subject were not flattering, and when intelligence shall arrive in Europe, that the State of Rhode Island has disagreed to the only fund which has yet been devised, there is every reason to apprehend it will have a fatal influence on their future progress. Deprived of this resource, our affairs must, in all probability, rapidly hasten to a dangerous crisis, and these states be involved in greater embarrassments than they have yet experienced, and from which it may be much more difficult to emerge. Congress will only add a request to your Excellency, that if the legislature should not be sitting, it may be called together as speedily as possible, to enable the gentlemen whom they have deputed to perform the purpose of their mission.¹

¹ This report, in the writing of Alexander Hamilton, is in the *Papers of the Continental Congress*, No. 20, I, folio 209.

[On a report of the Secretary at War,

WAR OFFICE, December 10th, 1782.

SIR,

On a motion of M^r Howell, for settling M^r Peck's depreciation, referred to the Secretary at War, I beg leave to submit the following draught of a resolve to the consideration of Congress.

Resolved, That it be recommended to the State of Rhode Island, to settle Major William Peck's depreciation in the manner they have adjusted the depreciation of the officers of their line.]¹

On a report from the Secretary at War,

WAR OFFICE, Dec. 10th, 1782.

SIR,

On the reference of my letter addressed to Congress respecting the British Prisoners of war, I beg leave to submit the following draught of a resolve,

Resolved, That the Secretary at War be empowered to permit any British prisoner of war to hire himself as a labourer, provided the person who employs him shall give sufficient security for his appearance when called for, in a penal bond of one hundred pounds current money of Pennsylvania, and that he pays to the Superintendent of Finance four dollars monthly for the hire of such prisoner while retained in his service.²

Ordered, That a letter from the Superintendent of Finance of 10th December respecting an allowance to T. Rutledge, purchasing commissary Southern Army, be referred to Mr. [John Lewis] Gervais, Mr. [Thomas] Fitzsimmons and Mr. [Abraham] Clark.

¹ This report is in the *Papers of the Continental Congress*, No. 149, II, folio 163. The part of the Journal in brackets was entered by George Bond.

The following undated motion, in the writing of David Howell, except the portions in brackets, which is in the writing of Elias Boudinot, is in No. 36, II, folio 95:

That the ~~Secretary at War~~ [Governor of Rhode Island] be directed to carry into effect the resolve of 25 July, 1777, in favour of Lieut. Col. Barton of the State of R. I. and P. P. [and that the expence be taken out of the first monies arising from the Duty of 5 P C recommended by Congress.]

² This report is in the *Papers of the Continental Congress*, No. 149, II, folio 175.

The resolution was entered only in the manuscript Secret (Domestic) Journal and in Secret Journal No. 8, A.

That a report of Superintendent of Finance for settling accounts of Officers up to the 31 December, 1781, be referred to Mr. [John Taylor] Gilman, Mr. [Alexander] Hamilton and Mr. [Thomas] Fitzsimmons.¹

THURSDAY, DECEMBER 12, 1782

Mr. Nathaniel Gorham, a delegate for the State of Massachusetts, attended, and produced the credentials of his appointment, which were read, and by which it appears, that on the 24 of October last, he was elected to serve for one year, to commence the first Monday of November, 1782.

COMMONWEALTH OF MASSACHUSETTS

By His Excellency John Hancock Esq: Governor & [Seal] Commander in Chief in & over the Commonwealth of Massachusetts

To all unto whom these Presents shall come Greeting.

WHEREAS the General Court of this Commonwealth did on the Twenty fourth day of October 1782 agreeable to the Constitution of this Commonwealth appoint The Hon^{ble} Nathaniel Gorham Esq: a Delegate to represent this Commonwealth in the General Congress of the United States of America,

Now therefore KNOW YE That I do by these Presents, and in pursuance of the said Appointment Commission the said Nathaniel Gorham Esq: to represent this Commonwealth in Congress & vest him with all & singular the Powers & Authorities to the said Office or place of Delegate belonging by Virtue of the Constitution of this Commonwealth & the Appointment aforesaid. And to hold said Office until the fifth day of November 1783. And the said Nathaniel Gorham Esq. is hereby required to observe the Instructions which from time to time shall be given to him by the General Court of this Commonwealth.

¹ These two orders were entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

On this day, according to the indorsement, a letter, of December 11, from the Secretary at War, enclosing an extract of a letter, of November 11, from Major General Greene, respecting the fortifications of Charlestown, was read and referred to Mr. [John Lewis] Gervais, Mr. [Alexander] Hamilton and Mr. [Daniel] Carroll. The committee was discharged April 28, 1783. The letter from the Secretary at War is in the *Papers of the Continental Congress*, No. 149, II, folio 181; and the extract from Greene's letter on folio 179.

IN TESTIMONY whereof I have caused the Public Seal of this Commonwealth aforesaid to be hereunto affixed.

WITNESS John Hancock Esq. Governor & Commander in Chief of the said Commonwealth.

Dated at Boston the Twentieth day of November in the Year of Our LORD One Thousand Seven & Eighty two, And in the Seventh Year of the Independence of the United States of America.

JOHN HANCOCK

By His Excellency's Command

JOHN AVERY Secy.¹

COMMONWEALTH OF MASSACHUSETTS

COUNCIL CHAMBER, *Boston, Nov^r 22^d, 1782*

These certify That the Honble Nathaniel Gorham Esq^r was Elected the 24th of October last a Delegate to represent this Commonwealth in Congress by joint Ballot of the Senate & House of Representatives agreeable to the Constitution to serve for one Year to commence the first Monday of November instant

JOHN AVERY Secy.²

Mr. John Collins, a delegate for the State of Rhode Island and Providence Plantations, attended, and produced the credentials of his appointment, by which it appears, that on the first Wednesday in May last, he was chosen to represent that State in the Congress of the United States for one year, and until another shall appear to take his place.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

I certify That at the Anniversary Election of all Officers, Civil and Military, for this State, held at Newport, on the First Wednesday in May last, the Honble John Collins, Esquire was chosen One of the Delegates to represent this State in the Congress of the United States for One Year, and until another shall appear to take his Place.

Witness my Hand, at Providence this Sixteenth Day of November, A. D. 1782, & in the Seventh Year of Independence.

HENRY WARD Secy.³

¹ The original is in the *Papers of the Continental Congress, Massachusetts, Credentials of Delegates*. It was entered in No. 179, *Record of Credentials*, and not in the Journal.

² This certificate is with the credentials of November 20, in the *Papers of the Continental Congress, Massachusetts, Credentials of Delegates*, but was not entered either in the Journal or in No. 179.

³ The original is in the *Papers of the Continental Congress, Rhode Island, Credentials of Delegates*. It was entered in No. 179, *Record of Credentials*, and not in the Journal.

A letter, of the 30 November, from the speaker of the lower house of assembly of the State of Rhode Island, being read,

A motion was made by Mr. [David] Howell, seconded by Mr. [Jonathan] Arnold, in the words following:

“Whereas a letter to his Excellency the President of Congress, from the lower house of assembly of the State of Rhode Island and Providence Plantations, hath been this day read in Congress, in the words and figures following, to wit:

East Greenwich, 30th November, 1782.

Sir: In obedience to the direction of the lower house of assembly of this State, I have the honor to enclose to your Excellency their unanimous resolution on the recommendation of Congress, respecting an impost on imported goods, &c. and to state some of the principal reasons which produced that resolution. The recommendation was rejected.

1st. Because it would be unequal in its operation, bearing hardest on the most commercial states, and so would press peculiarly hard upon this State, which draws its chief support from commerce:

2dly. Because it proposes to introduce into this and the other states, officers unknown and unaccountable to them, and so is against the constitution of this State: and

3dly. Because, by granting to Congress a power to collect moneys from the commerce of these states, indefinitely as to time and quantity, and for the expenditure of which they are not to be accountable to the states, they would become independent of their constituents; and so the proposed impost is repugnant to the liberty of the United States.

Many more reasons might be offered, and the subject drawn out to a great length, by descending to particulars; but these are sufficient to answer the main design of the house, which is to shew a decent respect to the states which have differed from them in opinion upon this subject.

This State may be justly ranked among the foremost in the common cause, having furnished in support of it as many men, and as much money, in proportion to its abilities, as any State in the union, and much more than most of them, and it is still disposed to continue its exertions; but it will raise and collect its quota of public taxes in such a way as shall be judged most proper.

And it is hoped, that when its resolutions are founded on the great principles of liberty and a general interest, it will not be thought to suspect the public virtue of the present Congress, by withholding from them or their servants, a power of which their successors might make a dangerous use.

With the highest sentiments of respect for your Excellency, and the honorable assembly over which you preside, I am your Excellency's most obedient servant,

WILLIAM BRADFORD, *Speaker*.¹

“Wherefore *Resolved*, That the resolution of the 6 of December instant, for appointing a deputation to be sent to the State of Rhode Island, for the purpose of making a full and just representation of the public affairs of the United States, and of urging the absolute necessity of a compliance with the resolution of Congress of the 3d day of February, 1781, respecting the duty on imports and prizes, as a measure essential to the safety and reputation of these states, be, and the same is hereby repealed.”²

On this motion the previous question was moved by the State of New York, seconded by the State of New Hampshire, that the question be not now put:

And on the question to agree to the previous question, the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>			<i>New York,</i>	
Mr. Gilman,	ay	} ay	Mr. Floyd,	ay
White,	ay		Hamilton,	ay
<i>Massachusetts,</i>			<i>New Jersey,</i>	
Mr. Osgood,	ay	} ay	Mr. Boudinot,	ay
Gorham,	ay		Clark,	ay
<i>Rhode Island,</i>			<i>Pennsylvania,</i>	
Mr. Collins,	no	} no	Mr. Fitzsimmons,	ay
Arnold,	no		Mifflin,	ay
Howell,	no			

¹ This letter is in the *Papers of the Continental Congress*, No. 64, folio 526. The indorsement states that it was referred to Mr. [Alexander] Hamilton, Mr. [James] Madison and Mr. [Thomas] Fitzsimmons.

² This motion, in the writing of Jonathan Arnold, is in the *Papers of the Continental Congress*, No. 36, I, folio 453. The vote is indorsed on it

<i>Delaware,</i>			<i>North Carolina,</i>	
Mr. McKean,	ay } *		Mr. Nash,	ay }
<i>Maryland,</i>			Williamson,	ay } ay
Mr. Carroll,	ay } *		Blount,	ay }
<i>Virginia,</i>			<i>South Carolina,</i>	
Mr. Madison,	ay } *		Mr. Ramsay,	ay }
			Gervais,	ay } ay

So it was resolved in the affirmative, and the main question was set aside.

That the deputation appointed to go to the Staté of Rhode Island to urge the necessity of a compliance with the recommendation of Congress for laying an Impost of 5 pc. delay their journey till the further order of Congress.¹

On the report of a committee, consisting of Mr. [Daniel] Carroll, Mr. [Samuel] Osgood and ~~Mr. Peters~~ Mr. [John Taylor] Gilman, to whom were referred the letter and report of the Secretary at War, on the subject of future promotions of colonels or lieutenant colonels commandant to the rank of brigadiers:

Resolved, That for the purpose of promotions of colonels or lieutenant colonels commandant in the army of the United States, to the rank of brigadiers, the army of the United States shall be considered as classed in the following divisions: the eastern, the middle and the southern: the troops of New Hampshire, Massachusetts, Rhode Island and Connecticut, shall form the eastern: those of New York, New Jersey, Pennsylvania, Delaware and Maryland, the middle: and those of Virginia, North Carolina, South Carolina and Georgia, the southern division:

That whensoever it shall be deemed necessary for the command of troops in service, to appoint brigadiers in any state or states, where the number of troops in the field are sufficient to form one or more brigades, the brigadiers shall be ap-

¹ This motion, in the writing of Abraham Clark, is in the *Papers of the Continental Congress*, No. 36, I, folio 471. According to the indorsement, it was referred on this day to Mr. [Alexander] Hamilton, Mr. [James] Madison and Mr. [Thomas] Fitzsimmons.

pointed from the senior colonels or lieutenant colonels commandant in the lines of such states; and when brigadiers shall be wanted to command brigades within any of the divisions composed of the troops of such states who have not individually numbers in the field sufficient to form a brigade, the brigadiers shall be appointed from the senior colonels or lieutenant colonels commandant in such brigades.

The Committee further submit the following resolution,

Resolved, That Cols. John Greaton, Rufus Putnam and Elias Dayton be appointed brigadiers in the army of the United States.¹

Ordered, That so much of the report as recommends certain officers to be promoted to the rank of brigadiers, be referred to the Secretary at War to report.

The Superintendent of finance, to whom was referred a memorial of Reyer Schermerhorn, reports,

“That from the face of the said memorial, it appears that the case of Mr. Schermerhorn falls within the purview of the resolutions of the 20 February, 1782.”²

Resolved, That Congress agree to the said report:

The committee, consisting of Mr. [Hugh] Williamson, Mr. [Daniel] Carroll and Mr. [James] Madison, appointed to consider how far the honor of Congress and the finances of the United States may be affected by certain late publications on the subject of foreign loans, &c. report,

“That among the different publications which have lately been made concerning foreign loans, they have particularly attended to a very remarkable extract of a letter, published in the Boston Gazette, of November 10, 1782, under the Providence head, which is there said to be ‘an extract of a letter from a gentleman in Philadelphia to his friend in that town, dated October 16’; in which are the following observa-

¹ This report, in the writing of Richard Peters, except the last paragraph, which is in that of Daniel Carroll, is in the *Papers of the Continental Congress*, No. 21, folio 311. See January 7, 1783.

² This report is in the *Papers of the Continental Congress*, No. 137, II, folio 87.

tions: 'This day letters have been read in Congress from Mr. Adams, of the 16 of August, and Mr. Dumas, his secretary, of the 19. The loan he is negotiating fills as fast as could be expected. The national importance of the United States is constantly rising in the estimation of European powers and the civilized world. Such is their credit, that they have of late failed in no application for foreign loans, and the only danger on that score is that of contracting too large a debt.'

"Your committee have examined the several letters that have been received from Mr. Adams, your minister at the Hague, in the course of the last six months, as well as those from Mr. Dumas, and the sundry letters which have been received from your ministers at Versailles and Madrid, on the subject of loans in the course of the present year, and they are sorry to observe, that the positions just referred to, on the subject of loans are not only ill founded, but some of them are expressly contradicted by the letters of your ministers at foreign courts; and whereas the above extract, from its date, and particular mention of other dates, is so drawn as to give reason to suspect that it was written by a member of Congress, or by some person officially entrusted with their papers; and as the duty and honor of Congress require that they should endeavour to detect and prevent misrepresentations of this kind:

Resolved, That the Secretary for foreign affairs be instructed to write to the executive of ~~Massachusetts~~ Rhode Island, requesting them to enquire through what channel the above communication was made, or who is the supposed author of the extract referred to, and report accordingly.¹

The Committee further report that the clause in the said publication which manifestly refers to the late advances made by the Court of Sweden towards a treaty with the United States affords a strong

¹ This report, in the writing of Hugh Williamson, is in the *Papers of the Continental Congress*, No. 25, II, folio 141.

presumption that the ~~injunction~~ obligation of secrecy by Congress on that subject has been violated ~~either~~ by some ~~one of its own~~ member of Congress or ~~that there has been some indiscretion or perfidy in that the information received from the Minister Plenipotentiary at the Court of Versailles has transpired from the offices to which it was entrusted,~~ by some person belonging to one of the offices to which the letter from the Minister Plenipo: at the Court of Versailles was entrusted; that as soon as the author of the said letter shall have been investigated it will be proper for Congress to examine resume the consideration of this part of the subject; but that ~~in the meantime~~ Congress cannot take notice thereof ~~by any public act~~ of it on the present occasion without authentically disclosing facts they wish to conceal.¹

Resolved, That Congress agree to the said report.

Ordered, That the further report of the committee be postponed.

On the application of Mr. [David] Howell,

Ordered, That he have leave of absence.

The Committee of the Week [Mr. William Floyd, Mr. Jonathan Arnold, Mr. David Ramsay,] beg leave to report, That the memorial of Lieutenant Verdier of Colonel Armand's Legion requesting to be put in a condition to join his regiment, be referred to the Secy at War.²

The Committee Consisting of M^r: [David] Ramsay, M^r: [Abner] Nash and M^r: [Richard] Peters, to whom was referred the Letter of the Secretary at War and a Letter from the Adjutant General on the Subject of postage of Letters, Report—

That in conformity to the principle long since established ~~in the post-office department~~ of franking letters to and from the heads of departments on public Service this privilege should be extended to ~~the Adjutant General,~~ the Inspector General, and Quartermaster General of the Army of the United States, the director of the Hospitals of the said United States, the physician, the Commissary of

¹ This paragraph, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 36, I, folio 477. It was postponed, as the indorsement states, and on December 31 called for by Mr. [David] Howell.

² This report, in the writing of William Floyd, is in the *Papers of the Continental Congress*, No. 32, folio 415. The indorsement shows that it was passed on this day. The memorial, dated Philadelphia, December 12, 1782, from Lieutenant B^{te} Verdier, relative to the loss of two horses, is in No. 41, X, folio 341.

prisoners, the Judge Advocate and the Paymaster General of the said Army.—And that the like privileges should be extended to the officers of the heads of the like departments, in any separate Army of the United States. If Congress approve of this they will please to order an ordinance to be brought in for that purpose. On the subject of restraining franks, your Committee are of opinion that it would be inexpedient to take away that privilege from the persons who at present enjoy it, or to refuse it to those public officers recited in the first part of this Report.¹

Ordered, That a letter of 2d December from the Governor of Connecticut relative to a grant proposed to be made by said State to certain Officers and men in Colonel Lamb's regiment be referred to the Superintendent of Finance and Secretary at War to report.

Ordered, That a Committee be appointed to consider and report what further or different provision may be made for discharging the interest that is or may become due on Loan Office Certificates and other Liquidated debts of the United States; the Members, Mr. [Thomas] Fitzsimmons, Mr. [Samuel] Osgood and Mr. [Daniel] Carroll.²

FRIDAY, DECEMBER 13, 1782

Mr. [Jonathan] Elmer, a delegate for New Jersey, attended, and took his seat.

WAR OFFICE, *December 12, 1782.*

SIR,

The case of Lieutenant Vadeir is one of those which may be provided for should Congress think proper to pass the draught of a resolve reported by the Secretary at War the 4th instant.³

¹ This report, in the writing of David Ramsay, is in the *Papers of the Continental Congress*, No. 59, III, folio 365. The indorsement shows that it was read and recommitted on this day.

² These two orders were entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers; Congressional Proceedings.*

³ This report is in the *Papers of the Continental Congress*, No. 149, II, folio 203. The indorsement says it was delivered December 13, and that the resolution therein referred to was passed.

On a report from the Secretary at War,

WAR OFFICE, December 4th, 1782.

SIR,

The resolve of Congress which allows a compensation to officers (whose duty requires them to be on horseback) for horses killed or wounded in battle, provides that when a horse shall be wounded, he must be brought off, and delivered to the Quarter Master General to entitle the officer to a compensation.

This is often impracticable. There are cases in which horses may be lost that should equally entitle the officers to compensation, which are not provided for in this resolve. To remedy this, and comprehend the contingencies of service—The propriety of passing the enclosed draught into a resolve is submitted to the Consideration of Congress.

Resolved, That every officer whose duty requires his being on horse-back, who shall have his horse killed or wounded and disabled by the enemy, or whose horse shall fall into the enemy's hands without his own manifest fault or misconduct, shall be entitled to receive of the quartermaster general or his deputy, the just value of such horse, to be appraised on oath, or on the honor of the appraisers, if commissioned officers, provided the same does not exceed one hundred and twenty dollars; provided also, that if the wounded or disabled horse be brought off, he shall be delivered to some officer in the quartermaster's department, whose certificate shall be necessary to entitle the owner to compensation; provided also, that before any compensation shall be made for horses lost in manner before-mentioned, the necessary facts shall be proved to the satisfaction of the quartermaster general or his deputy, to whom application shall be made relative to any such losses as have already happened, and in future, by the certificate upon honor of at least one commissioned officer, or the oath of a non-commissioned officer or soldier not interested therein, countersigned by the commanding officer of the army, brigade, corps or detachment, to which the claimant did at the time belong, unless he be the general commanding where the loss accrued,

in which case his own certificate upon honor shall entitle him to compensation in manner aforesaid. This resolution to have a retrospect to the first day of January, 1779: this resolution not to extend to officers who have already received compensation for horses lost since that day.¹

The Secretary at War, to whom was referred so much of a petition of Belamy Crawford, as relates to cloathing, rations, subsistence and extraordinary expences, while a prisoner at Charlestown, having reported thereon:

WAR OFFICE, *December 11th, 1782.*

SIR,

On the memorial of Bellamy Crawford referred to me, I beg leave to report, and to request the particular attention of Congress—as he has endeavoured to impress on their minds a design in me to deprive him of certain benefits which, as he expresses it, the goodness of Congress intended him.

By the resolves of Congress of the 15th of May 1781, when officers were appointed to the Hospital in the Southern Department, Mr Crawford and others then in Charlestown, being omitted in the new arrangement, were continued in their respective offices as heretofore and entitled to the same privileges and emoluments as they had enjoyed before their captivity; but this indulgence seems to have been limited by Congress to the officers while acting in the hospital in South Carolina. Since Mr Crawford has been in Philadelphia, the same indulgences have been continued, and he has drawn four rations per day, and pay as officers in full service. His complaint is that in addition to this allowance, he does not enjoy all the emoluments of officers of his rank, who are now in service. Were these accorded him it would be granting the complete emoluments of two different resolves, to the latter of which, as a deranged officer, he can have no pretensions, and it would be giving a double allowance to one officer, which is incompatible with our present system, and would give just grounds of complaint to every other officer.

With respect to his complaint, that he has not been supplied with clothing, he stands in this relation on the same ground with all other officers. The sum of one hundred and twenty dollars being two months pay was advanced him last spring for this purpose.

¹ This report and the draft on which the resolution is based are in the *Papers of the Continental Congress*, No. 149, II, folios 153, 155.

I am directed by Congress to report an allowance for the officers of the Hospital Department who continued with the sick in Charlestown.

I have written to the Deputy Director Doctor Oliphant, who was some time there himself, for information on this subject, when I receive his answer I will report to Congress.¹

Ordered, That the said petition, so far as referred to the Secretary at War, be dismissed.

Congress proceeded by ballot to settle the rank of the two judges of the court of appeals, elected on the 5, and the lots being drawn, the precedence was decided in favor of Mr. Read.

The Committee on the letter from Col. Stewart to the Secretary at War, report the following resolution—

Resolved, That the Secretary at War have a power of discharging soldiers from the Army of the United States similar to that given to the Commander in Chief.²

The Committee on the letter of the Secy at War of the 30th Oct^r submit the following report.

Resolved, That it be and hereby is recommended to the several States to settle with and satisfy the Officers of their respective ~~lines~~ States for the half pay, promised them, in a manner which shall be mutually agreed on between the State and such officers.

Resolved, That the Secretary of War make out a return of all the Officers to whom half pay is promised, and the States to which they respectively belong, and if it shall appear thereupon that the amount of half pay for one year shall exceed the due proportion upon the principle of the 8th Article of Confederation which such State would be required to pay, the amount of such excess shall be credited to such State provided they really pay the same, or such part thereof as they ~~may~~ shall pay.

Resolved, That every State that shall ~~agree~~ settle with and satisfy their respective Officers for the half pay promised, shall not be

¹ This report is in the *Papers of the Continental Congress*, No. 149, II, folio 191.

² This report, in the writing of Alexander Hamilton, is in the *Papers of the Continental Congress*, No. 19, V, folio 413. The indorsement shows that it was postponed, and the letter of Colonel Stewart, of December 11, referred to the Secretary at War to take order. The committee was [Alexander] Hamilton, [James] Madison and [Samuel] Osgood.

responsible for the half pay that may be due to the Officers of any other State, except as is above excepted.¹

MONDAY, DECEMBER 16, 1782

On motion of Mr. [Richard] Peters, seconded by Mr. [Thomas] McKean,

Resolved, That the honorable the executive of the State of Delaware be, and hereby are requested to give the necessary directions for providing quarters for the troops of his Most Christian Majesty, serving with the army of the United States, now on their march for Wilmington.

The committee, consisting of Mr. [Alexander] Hamilton, Mr. [James] Madison and Mr. [Thomas] Fitzsimmons, to whom was referred the letter, of 30 November, from the hon^{ble} William Bradford, Speaker of the lower house of Assembly of the State of Rhode Island, containing under three heads the reasons of that State for refusing their compliance with the recommendation of Congress for a duty on imports and prize goods, report,

That they flatter themselves the State, on a reconsideration of the objections they have offered, with a candid attention to the arguments which stand in opposition to them,

¹ This report, in the writing of Samuel Osgood, is in the *Papers of the Continental Congress*, No. 27, folio 211. A copy of the second and third resolves in substance, in the writing of Abraham Clark, is on folio 215, and on folio 217 is the following, in the writing of Richard Peters:

That the Secretary of War be also directed to make return &c. of all officers not belonging to any State.

That the United States in Congress assembled so soon as the state of their finances will admit will take measures for establishing proper funds for the payment of the half pay becoming due to officers not belonging to any State.

From the indorsement of the report it appears that it was delivered December 12; read the 13th; Tuesday next assigned for its consideration; December 17, recommended and Mr. [Alexander] Hamilton, Mr. [James] Madison added to the original committee. The original committee was: Mr. [Daniel] Carroll, Mr. [Samuel] Osgood, Mr. [Richard] Peters.

On this day, according to the indorsement, was read a letter of the same day, from the Agent of Marine enclosing an extract of a letter from Captain Barry. It is in No. 137, II, folio 99.

will be induced to retract their dissent, convinced that the measure is supported on the most solid grounds of equal justice, policy and general utility. The following observations, contrasted with each head of the objections successively will furnish a satisfactory answer to the whole.

First Objection, "That the proposed duty would be unequal in its operation, bearing hardest upon the most commercial states and so would press peculiarly hard upon that State, which draws its chief support from commerce"

The most common experience joined to the concurrent opinions of the ablest commercial and political observers have established beyond controversy this general principle, "that every duty on imports is incorporated with the price of the commodity, and ultimately paid by the consumer with a profit on the duty itself as a compensation to the merchant for the advance of his money."

The merchant considers the duty demanded by the State on the imported article in the same light with freight or any similar charge and adding it to the original cost calculates his profit on the aggregate sum. It may happen that at particular conjunctures where the markets are overstocked and there is a competition among the sellers, this may not be practicable; but in the general course of trade the demand for consumption preponderates and the merchant can with ease indemnify himself and even obtain a profit on the advance. As a consumer he pays his share of the duty, but it is no further a burthen upon him. The consequence of the principle laid down is, that every class of the community bears its share of the duty in proportion to its consumption, which last is regulated by the comparative wealth of the respective classes in conjunction with their habits of expence or frugality. The rich and luxurious pay in proportion to their riches and luxury, the poor and parsimonious in proportion to their poverty and parsimony. A chief excellence of this mode of revenue is that it preserves a just measure to

the abilities of individuals, promotes frugality and taxes extravagance. The same reasoning in our situation applies to the intercourse between two states. If one imports and the other does not, the latter must be supplied by the former. The duty being transferred to the price of the commodity is no more a charge on the importing State for what is consumed in the other, than it is a charge on the merchant for what is consumed by the farmer or artificer. Either State will only feel the burthen in a ratio to its consumption, and this will be in a ratio to its population and wealth. What happens between the different classes of the same community internally happens between the two states; and as the merchant in the first case so far from losing the duty himself has a profit on the money he advances for that purpose, so the importing State which in the second case is the merchant with respect to the other is not only reimbursed by the non-importing State but has a like benefit on the duty advanced. It is therefore the reverse of a just position that the duty proposed will bear hardest on the most commercial states. It will, if anything, have a contrary effect, though not in a sufficient degree to justify an objection on the part of the non-importing states. For it is as reasonable they should allow an advance on the duty paid as on the first cost, freight or any incidental charge. They have also other advantages in the measure fully equivalent to this disadvantage. Over-nice and minute calculations in matters of this nature are inconsistent with national measures and in the imperfect state of human affairs would stagnate all the operations of government. Absolute equality is not to be attained: To aim at it is pursuing a shadow at the expence of the substance and in the event we should find ourselves wider of the mark, than if in the first instance we were content to approach it with moderation.¹

¹ From this point the entries in the Journal are by George Bond.

Second Objection, "That the recommendation proposes to introduce into that and the other states, Officers unknown and unaccountable to them, and so is against the constitution of the State."

It is not to be presumed that the constitution of any State could mean to define and fix the precise numbers and descriptions of all Officers to be permitted in the State, excluding the creation of any new ones, whatever might be the necessity derived from that variety of circumstances incident to all political institutions. The legislature must always have a discretionary power of appointing Officers, not expressly known to the constitution, and this power will include that of authorising the Federal Government to make the appointments in cases where the general welfare may require it. The denial of this would prove too much; to wit, that the power given by the Confederation to Congress to appoint all Officers in the Post Office, was illegal and unconstitutional.

The doctrine advanced by Rhode Island would perhaps prove also that the Federal Government ought to have the appointment of no internal Officers whatever, a position that would defeat all the provisions of the Confederation, and all the purposes of the Union. The truth is, that no Federal constitution can exist without powers, that in their exercise affect the internal police of the component members. It is equally true that no government can exist without a right to appoint Officers for those purposes which proceed from and concenter in itself; and therefore the Confederation has expressly declared that Congress shall have authority to appoint all such "civil officers as may be necessary for managing the general affairs of the United States under their direction." All that can be required is that the Federal government confine its appointments to such as it is empowered to make by the original act of Union, or by the subse-

quent consent of the parties. Unless there should be express words of exclusion in the constitution of a State, there can be no reason to doubt that it is within the compass of Legislative discretion to communicate that authority.

The propriety of doing it upon the present occasion is founded on substantial reasons.

The measure proposed is a measure of necessity. Repeated experiments have shewn that the revenue to be raised within these states is altogether inadequate to the public wants. The deficiency can only be supplied by loans. Our applications to the foreign powers on whose friendship we depend have had a success far short of our necessities. The next resource is to borrow from individuals. These will neither be actuated by generosity nor reasons of state. 'Tis to their interest alone we must appeal. To conciliate this, we must not only stipulate a proper compensation for what they lend, but we must give security for the performance. We must pledge an ascertained fund, simple and productive in its nature, general in its principle, and at the disposal of a single will. There can be little confidence in a security under the constant revisal of thirteen different deliberatives. It must once for all be defined and established on the faith of the states solemnly pledged to each other and not revocable by any without a breach of the general compact.

'Tis by such expedients that nations, whose resources are understood, whose reputations and governments are erected on the foundation of ages, are enabled to obtain a solid and extensive credit. Would it be reasonable in us to hope for more easy terms ~~whose existence as a nation is a problem still to be solved by the sword~~ who have so recently assumed our rank among the nations? Is it not to be expected, that individuals will be cautious in lending their money to a people in our circumstances, and that they will at least require the best security we can give?

We have an Enemy vigilant, intriguing, well acquainted with our defects and embarrassments. We may expect that he will make every effort to instil diffidences into individuals, and in the present posture of our internal affairs he will have too plausible ground on which to tread. Our necessities have obliged us to embrace measures with respect to our public credit, calculated to inspire distrust. The prepossessions on this article must naturally be against us, and it is therefore indispensable we should endeavour to remove them by such means as will be the most obvious and striking.

It was with these views Congress determined on a general fund; and the one they have recommended must upon a thorough examination appear to have fewer inconveniences than any other.

It has been remarked as an essential part of the plan, that the fund should depend on a single will. This will not be the case unless the collection as well as the appropriation is under the controul of the United States; for it is evident, that after the duty is agreed upon it may in a great measure be defeated by an ineffectual mode of levying it. The United States have a common interest in an uniform and equally energetic collection; and not only policy but justice to all the parts of the Union designates the utility of lodging the power of making it where the interest is common. Without this it might in reality operate as a very *unequal tax*.

Third Objection, "That by granting to Congress a power to collect monies from the commerce of these states indefinitely as to time and quantity, and for the expenditure of which they are not to be accountable to the states, they would become independent of their constituents, and so the proposed impost is repugnant to the liberty of the United States."

Admitting the principle of this objection to be true, still it ought to have no weight in the present case, because there is no analogy between the principle and the fact.

First, the fund proposed is sufficiently definite as to time, because it is only co-extensive with the existence of the debt contracted and to be contracted in the course of the war. Congress are persuaded that it is as remote from the intention of their constituents to perpetuate that debt as to extinguish it at once by a faithless neglect of providing the means to fulfil the public engagements. Their ability to discharge it in a moderate time can as little be doubted as their inclination, and the moment that debt ceases the duty so far as respects the present provision ceases with it.

~~Independent of other provisions for discharging the public debt the revenue from this duty in the future progress of our trade will afford a surplus beyond the appropriations for interest, which from the express condition of the grant must be applied as a sinking fund to pay off the principal, and by which the supposition of perpetuity is destroyed.~~

The resolution recommending the duty specifies the object of it to be the discharge of the principal and interest of the debts already contracted or which may be contracted on the faith of the United States for supporting the present war.

Secondly, The rate per cent is fixed, and it is not at the option of the United States to encrease it. Though the product will vary according to the variations in trade; yet as there is this limitation of the rate it cannot be properly said to be indefinite as to quantity.

By the Confederation, Congress have an absolute discretion in determining the quantum of revenue requisite for the national expenditure. When this is done, nothing remains for the states separately, but the mode of raising. No State can dispute the obligation to pay the sum demanded without a breach of the Confederation; and when the money comes into the treasury the appropriation is the exclusive province of the Federal Government. This provision of the Confederation (without which it would be an empty form) comprehends in it the principle in its fullest latitude which the

objection under consideration treats as repugnant to the liberty of the United States; to wit, an indefinite power of prescribing the quantity of money to be raised and of appropriating it when raised.

If it be said that the states individually having the collection in their own hands may refuse a compliance with exorbitant demands, the Confederation will answer, that this is a point of which they have no constitutional liberty to judge. Such a refusal would be an exertion of power not of right, and the same power which could disregard a requisition made on the authority of the Confederation, might at any time arrest the collection of the duty.

The same kind of responsibility which exists with respect to the expenditure of the money furnished in the forms hitherto practiced, would be equally applicable to the revenue from the imports.

The truth is, the security intended to the general liberty in the Confederation consists in the frequent election and in the rotation of the members of Congress, by which there is a constant and an effectual check upon them. This is the security which the people in every State enjoy against the usurpations of their internal governments; and it is the true source of security in a representative republic. The government so constituted ought to have the means necessary to answer the end of its institution. By weakening its hands too much it may be rendered incapable of providing for the interior harmony or the exterior defence of the State.

The measure in question if not within the letter, is within the spirit of the Confederation. Congress by that are empowered to borrow money for the use of the United States, and by implication to concert the means necessary to accomplish the end. But without insisting upon this argument, if the Confederation has not made proper provision for the exigencies of the states it will be at all times the duty of Congress to suggest further provisions; and when their pro-

posals are submitted to the unanimous consent of the states, they can never be charged with exceeding the bounds of their trust. Such a consent is the basis and sanction of the Confederation which expressly in the 13th article empowers Congress to agree to and propose such additional provision.

The remarks hitherto made have had reference principally to the future prosecution of the war. There still remains an interesting light in which the subject ought to be viewed.

The United States have already contracted a debt in Europe and in this country, for which their faith is pledged. The capital of this debt can only be discharged by degrees; but a fund for this purpose, and for paying the interest annually on every principle of policy and justice ought to be provided. The omission will be the deepest ingratitude and cruelty to a large number of meritorious individuals, who in the most critical periods of the war have adventured their fortunes in support of our Independence. It would stamp the national character with indelible disgrace.

An annual provision for the purpose will be too precarious. If its continuance and application were certain, it would not afford complete relief. With many the regular payment of interest by occasional grants would suffice; but with many more it would not. These want the use of the principal itself, and they have a right to it: but since it is not in our power to pay off the principal, the next expedient is to fund the debt and render the evidences of it negotiable.

Besides the advantage to individuals from this arrangement, the active stock of the nation would be increased by the whole amount of the domestic debt, and of course the abilities of the community to contribute to the public wants. The national credit would revive and stand hereafter on a secure basis.

This was another object of the proposed duty.

If it be conceded that a similar fund is necessary it can hardly be disputed that the one recommended is the most

eligible. It has been already shewn that it affects all parts of the community in proportion to their consumption, and has therefore the best pretensions to equality. It is the most agreeable tax to the people that can be imposed, because it is paid insensibly and seems to be voluntary.

It may perhaps be imagined that it is unfavorable to commerce; but the contrary can easily be demonstrated. It has been seen that it does not diminish the profit of the merchant, and of course can be no diminution of his inducements to trade. It is too moderate in its amount to discourage the consumption of imported goods, and cannot on that account abridge the extent of importations. If it even had this effect it would be an advantage to commerce, by lessening the proportion of our imports to our exports and inclining the balance in favor of this country.¹

The principal thing to be consulted for the advancement of commerce is to promote exports. All impediments to these either by way of prohibition or by encreasing the prices of native commodities, decreasing by that means their sale and consumption at foreign markets, are injurious. Duties on exports have this operation. For the same reason taxes on possessions and the articles of our own growth or manufacture, whether in the form of a land tax, excise or any other, are more hurtful to trade than import duties. The tendency of all such taxes is to encrease the prices of those articles which are the objects of exportation, and to enable others to undersell us abroad. The farmer if he pays a heavy land tax must endeavour to get more for the products of his farm: the mechanic and labourer, if they find the necessaries of life grow dearer by an excise, must endeavour to exact higher wages; and these causes will produce an encrease of prices within and operate against foreign commerce.

¹ In the original report, by mistake, it reads "exports to our imports."

It is not, however, to be inferred that the whole revenue ought to be drawn from imports: all extremes are to be rejected. The chief thing to be attended to is that the weight of the taxes fall not too heavily in the first instance upon particular parts of the community. A judicious distribution to all kinds of taxable property is a first principle in taxation. The tendency of these observations is only to show that taxes on possessions, on articles of our own growth and manufacture, are more prejudicial to trade than duties on imports.

The observations which conclude the letter on which these remarks are made naturally lead to reflections that deserve the serious attention of every member of the Union. There is a happy mean between too much confidence and excessive jealousy in which the health and prosperity of a State consist. Either extreme is a dangerous vice; the first is a temptation to men in power to arrogate more than they have a right to—the latter enervates government, prevents system in the administration, defeats the most salutary measures, breeds confusion in the State and disgusts and discontents among the people and may eventually prove as fatal to liberty as the opposite temper.

It is certainly pernicious to leave any government in a situation of responsibility disproportioned to its power.

The conduct of the war is entrusted to Congress, and the public expectation turned upon them without any competent means at their command to satisfy the important trust. After the most full and solemn deliberation under a collective view of all the public difficulties, they recommend a measure which appears to them the cornerstone of the public safety: they see this measure suspended for near two years—partially complied with by some of the states, rejected by one of them and in danger on that account to be frustrated; the public embarrassments every day increasing, the dissatisfaction of the army growing more serious, the other creditors

of the public clamoring for justice, both irritated by the delay of measures for their present relief or future security, the hopes of our enemies encouraged to protract the war, the zeal of our friends depressed by an appearance of remissness and want of exertion on our part, Congress harassed, the national character suffering and the national safety at the mercy of events.

This state of things cannot but be extremely painful to Congress and appear to your committee to make it their duty to be urgent to obviate the evils with which it is pregnant.

Resolved, That Congress agree to the said report.

~~Your Committee observing that the apprehension of perpetuity in the duration of the fund recommended has great share in the opposition with which it meets, take the liberty to propose the following resolutions as tending effectually to remove all apprehension on that head.~~

Whereas it is essential to justice and to the preservation of public credit, that whenever a nation is obliged by the exigencies of public affairs to contract a debt, proper funds should be established, not only for paying the annual value or interest of the same, but for discharging the principal within a reasonable period, by which a nation may avoid the evils of an excessive accumulation of debt; therefore,

Resolved, That whenever the neat produce of any funds recommended by Congress and granted by the states, for funding the debt already contracted, or for procuring future loans for the support of the war, shall exceed the sum requisite for paying the interest of the whole amount of the national debt, which these states may owe at the termination of the present war, the surplus of such grants shall form a sinking fund, to be inviolably appropriated to the payment of the principal of the said debt, and shall on no account be diverted to any other purpose.

[And in order that the several states may have proper information of the state of their finances, it is further

Resolved, That as soon as the public debt can be liquidated, each State be annually furnished with the amount thereof and the interest thereon, and also of the proceeds and disposition of the funds provided for the redemption thereof.]

Resolved, That the faith of the United States be pledged for the observance of the foregoing resolution; and that if any State shall think it necessary to make it a condition of their grants, the same will be agreeable to Congress considered by Congress as consistent with their resolution of the 3d of February, 1781.¹

OFFICE OF FINANCE, 12th Decemb^r 1782.

SIR,

On the seventh of January last, Congress were pleased to resolve that it be an Instruction to the Superintendant of Finance to prepare and report to Congress a Table of Rates at which the different species of foreign coins most likely to circulate within the United States shall be received at the Treasury thereof. In Consequence of this Resolution I took the liberty to recommend the establishment of a mint which was agreed to. I have take many steps to carry that Resolution into effect, and hoped by this time to have laid a satisfactory state of it before Congress. Delays, the Causes of which need not be enumerated, have hitherto procrastinated the matter beyond my expectations, but there are many reasons why an immediate regulation of foreign coins should now be made. It is not the least among them that all our dollars are rapidly going to the enemy in exchange for light gold, which must eventually cause a considerable loss, and a scarcity of silver which will be severely felt. I take the liberty therefore to suggest the following Act.

Whereas by the Articles of Confederation and perpetual union the United States in Congress assembled are vested with the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority or by that of the respective States; And whereas the several requisitions on the States and the public

¹ This report is in the writing of Alexander Hamilton, except the part in brackets, which is in the writing of Thomas Fitzsimmons. It is in the *Papers of the Continental Congress*, No. 20, I, folios 213-229.

At this point Charles Thomson resumes the entries in the Journal.

accounts of these United States are made and kept in dollars; And whereas it is of Importance that until money be coined by authority of the United States some fixed proportion be established between the different foreign coins most likely to circulate: Be it therefore ordained by the United States in Congress assembled, and it is ordained by authority of the same that from and after the first day of January in the year of our Lord one thousand seven hundred and eighty three, English silver coin be received at the rate of one Dollar and sixteen Ninetieths of a dollar by the ounce, Dutch silver coin at the rate of one dollar and fifteen ninetieths by the ounce, French silver coin at the rate of one dollar and fourteen ninetieths by the ounce, Portuguese silver coin at the rate of one dollar and thirteen ninetieths by the ounce, English, Spanish and Portuguese gold coin at the rate of seventeen dollars by the ounce, and French gold coin at the rate of sixteen dollars and sixty eight ninetieths by the ounce.

I take the liberty to observe, Sir, that this estimation of coins is founded upon the quantity of alloy which they respectively contain, the weight of each particular piece current among us is so indeterminate that the value by tale cannot be fixed; but whenever the rates at which they go as bullion are known a table may be formed in each State for the tale according to the customary weights which prevail.¹

TUESDAY, DECEMBER 17, 1782

The committee, consisting of Mr. [Alexander] Hamilton, Mr. [James] Madison and Mr. [Thomas] Fitzsimmons, to whom was referred a motion of Mr. [Abraham] Clark, report as their opinion, that the deputation appointed to go to the State of Rhode Island, ought to proceed as soon as possible.²

¹ This report is in the *Papers of the Continental Congress*, No. 137, II, folio 91. Committee Book No. 186 shows that it was referred, on December 16, to Mr. [Thomas] Fitzsimmons Mr. [Samuel] Osgood and Mr. [Samuel] Wharton. On December 19, Osgood was dropped from the committee and Mr. [John] Rutledge, Mr. [Alexander] Hamilton and Mr. [Nathaniel] Gorham added. On April 23, 1783, the committee was "discharged and the business referred to a committee of five on a letter of this day from the Superintendent of Finance." A copy of the report is on folio 95.

On this day, according to the indorsement, a letter of the same date, from George Bond was read and referred to Mr. [Daniel] Carroll, Mr. [Hugh] Williamson, Mr. [Samuel] Wharton. It is in No. 78, IV, folio 361.

² This report, in the writing of Alexander Hamilton, is in the *Papers of the Continental Congress*, No. 36, I, folio 471.

Resolved, That Congress agree to the said report.

~~On motion of [Daniel] Carroll, seconded by Mr. [David] Ramsay,~~

~~*Resolved*, That the Secretary for Foreign Affairs be discharged from the instruction given him on the 12 instant.~~

Mr [David] Howel having avowed himself the author of the letter respecting foreign loans and other matters as published in the Boston Gazette of Nov: 10, 1782, mentioned in the report of the Committee thereupon, It is the sense of this house that the said letter contains a misrepresentation of facts of a tendency injurious to the public affairs *and a disclosure of an important foreign transaction requiring secrecy* and that therefore the said letter is highly unjustifiable.¹

Ordered, That a letter from the Secretary at War of the 13th December, 1782, respecting a Bill drawn by Brigadier Scott be referred to the Superintendent of Finance to take order.²

WEDNESDAY, DECEMBER 18, 1782

Mr. J[ohn] Montgomery, a delegate for Pennsylvania, attended, and took his seat.

On the report of a committee, consisting of Mr. [Daniel] Carroll, Mr. [Hugh] Williamson and Mr. [Samuel] Wharton, to whom was referred a letter from G. Bond:

Resolved, That the Superintendent of finance take order for the payment of four hundred dollars to George Bond, deputy secretary of Congress, for extra service.³

On the report of a committee, consisting of Mr. [David] Ramsay, Mr. [Abner] Nash and Mr. [Richard] Peters, to whom was referred a letter of 22 November, from E. Hazard

¹ This motion, in the writing of Alexander Hamilton, is in the *Papers of the Continental Congress*, No. 36, IV, folio 71. It is undated. See post Madison's notes December 17th.

² This order was entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

³ This report, in the writing of Daniel Carroll, is in the *Papers of the Continental Congress*, No. 19, I, folio 395.

and J. Bryson, relative to an explanation of the resolution of Congress of the 12 of December, 1780:

The Committee consisting of M^r: Ramsay, M^r: Nash, and M^r: Peters, to whom was committed a letter from M^r: Hazard and M^r: Bryson relative to an explanation of the Resolution of Congress of the 12th of December 1780 on the subject of giving a retrospect to the allowance to the Surveyors of the Post Roads, for travelling expences, Report, That the Spirit of the Resolution, and the justice of the case are in favor of the construction contended for by the Head of the Post Office Department and therefore they recommend the following Resolution:

Resolved, That the auditors of accounts, in settling the accounts of the post-office department, be authorised to give the same retrospect to the allowance for travelling expences as to the yearly salary of the surveyors of the post-roads.¹

The Secretary at War, to whom were referred sundry charges against S. Hodgdon, late commissary of military stores, a petition of Mary Coren and an affidavit of J. Hall, respecting the conduct of the said Hodgdon, with orders to proceed by court of enquiry or court-martial, against the said Hodgdon, in order that he may be acquitted or condemned, according to the law martial, of the charges exhibited against him; having laid before Congress the proceedings of a court of enquiry appointed pursuant to the above orders; and the said proceedings and report of the said court being read,

Ordered, That the charges above-mentioned be dismissed.²

A motion being before the house in the words following:

[On motion of Mr. Daniel Carroll, seconded by Mr. David Ramsay, *Resolved*,

“That the secretary for foreign affairs be discharged from the instruction given him on the 12 instant] Mr. [David] Howell, a delegate from the State of Rhode Island, having

¹ This report, in the writing of Abner Nash, is in the *Papers of the Continental Congress*, No. 19, III, folio 79.

² The Secretary at War's letter, dated December 16, is in the *Papers of the Continental Congress*, No. 149, II, folio 207.

acknowledged himself the author of the extract of the letter quoted in the report of the committee." ¹

A motion was made by Mr. [David] Howell, ~~seconded by Mr.~~ to postpone the consideration of the motion before the house, to make way for one he read in his place, in the words following:

David Howell, of Providence, in the State of Rhode Island and Providence Plantations, now a delegate in Congress for the said State, having in his place made the following declaration, viz.

That he hath, in sundry letters to his constituents, written largely on the public affairs, both foreign and domestic, of the United States, particularly in a letter of 15 pages, in folio, directed to his Excellency William Greene, esq. governor of said State, and in another, less copious, directed to John Carter, esq. printer of the Providence Gazette; from one of which, he doubts not, was extracted a certain paragraph in the Providence Gazette of the 2d day of November last, as follows, viz.

This day letters have been read in Congress from Mr. Adams, of the 16 of August; Mr. Dumas, his secretary, of the 19. The loan he is negotiating fills as fast as could be expected. * * * The national importance of the United States is constantly rising in the estimation of European powers and the civilized world. * * * Such is their credit, that they have of late failed in no application for foreign loans, and the danger on that score is that of contracting too large a debt." * * * * * *desunt non nulla* * * * * *

¹ This motion, in the writing of Alexander Hamilton, except the part in brackets, which is in the writing of Charles Thomson, is in the *Papers of the Continental Congress*, No. 36, I, folio 465.

The following undated motion, in the writing of David Ramsay, is on folio 453:

Whereas Congress has received information of the writer of the Extract referred to in the resolution of Therefore

Resolved, That the Secretary of Foreign Affairs be discharged from making the enquiry ordered by that Resolution.

But not having copies of said letters, he is at present unable to identify the words and sentences: the substance he avows to have written not only in said letters, but others on sundry occasions: at the same time absolutely protesting generally against any power exercised or claimed by Congress, to call any member of their body to account for any information which he may think proper to communicate to his constituents, (the secrets only of Congress excepted); and more especially against any power in the present Congress to call to account a member of the late Congress. Further alleging and protesting, that the resolve of the day of December instant appointing a committee of Congress on late publications, is a departure from the dignity of Congress, and tends to establish a precedent dangerous to the freedom of the press, the palladium of liberty, civil and religious; and that the resolve of the day of December instant accepting the report of said committee against a certain paragraph in a newspaper, and demanding the writer thereof to be delivered up by the executive of the State of Rhode Island, is in effect an infraction of the 5th Article of the Confederation, which allows *freedom of speech and debate in Congress*, and of course a free communication of such speeches and debates to their constituents, by the members of Congress, without being accountable to that body for the propriety of what is said, debated or communicated; and declaring that the facts stated in said paragraph, respecting foreign loans, are substantially true, and can be established by authentic documents in possession of Congress, there having been no eventual and final failure in any late application; that the opinions advanced were such as he entertained and declared on the floor of Congress, when the sum of a foreign loan was agitated, as the yeas and nays on the journal will manifest, and such as he still retains, and in which he is not alone; that great injustice may be done to the most cautious writer, by publishing a single paragraph

only of a letter (of which however he does not in this case complain) and still greater by a committee of Congress reporting only a part of such paragraph, and thereby fixing it on the journals in such a detached and maimed condition, of which he does complain, and alleges that such proceeding threatens the privileges and endangers the characters of members of Congress; that such a mode of inquisition, established by authority of Congress, has a tendency to erect a system of despotism, by deterring the minority from writing freely to their constituents such things as they have a right to know, lest their letters should be intercepted, published, and in detached paragraphs injuriously fixed on the journals of Congress by an overbearing majority; that it is well known that in his private opinion he is, has been, and has a right to be, against the five per cent impost; his constituents expected him to oppose it; that he has been faithful to them in that particular will not be denied. He is happy to find that the State he has the honor to represent has unanimously rejected that dangerous measure, by a solemn determination of the lower house of assembly, on the first day of November last, fifty-three members being present. If the part he has taken in that regard has drawn on him the resentment of any, he will endeavour to sustain it with a fortitude becoming the cause of freedom and his country, which in every part of his conduct he has uniformly supported, and for proof appeals to the journals of Congress. His constituents have hitherto approved his conduct, and he trusts they will not fail to support him. He considers himself as their servant, and to them alone he is accountable for his doings; and under them the servant of the United States, and not the servant of Congress.

The declaration and protest aforegoing, being duly considered,

Resolved, That the resolution of _____ in the words following, viz. "Resolved, that the Secretary for foreign affairs

be instructed to write to the executive of Rhode Island, requesting them to enquire through what channel the above communication was made, or who is the supposed author of the extract referred to, and report accordingly," be and the same is hereby revoked.¹

This motion of Mr. [David] Howell, being seconded by Mr. [Jonathan] Arnold, and on the question to agree to it, the yeas and nays being required by Mr. [David] Howell,

<i>New Hampshire,</i>			<i>Delaware,</i>			
Mr. Gilman,	no	} no	Mr. McKean,	no	} *	
White,	no		<i>Maryland,</i>			
<i>Massachusetts,</i>			Mr. Carroll,	no	} *	
Mr. Osgood,	no	} no	<i>Virginia,</i>			
Gorham,	no		Mr. Jones,	no	} no	
<i>Rhode Island,</i>			Madison,	no		
Mr. Collins,	ay	} ay	<i>North Carolina,</i>			
Arnold,	ay		Mr. Nash,	no	} no	
Howell,	ay		Williamson,	no		
<i>New York,</i>			Blount,	no		
Mr. Floyd,	no	} no	<i>South Carolina,</i>			
Hamilton,	no		Mr. Ramsay,	no	} no	
<i>New Jersey,</i>			Izard,	no		
Mr. Boudinot,	no	} no	Gervais,	no		
Clark,	no					
<i>Pennsylvania,</i>						
Mr. Fitzsimmons,	no	} no				
Peters,	no					
Montgomery,	no					

So it passed in the negative.

A question was then taken on the motion before the house; Whereupon, it was

Resolved, That the Secretary for foreign affairs be discharged from the instruction given him on the 12th instant Mr. [David] Howell, a delegate from the State of Rhode Island, having acknowledged himself the author of the

¹ This motion, in the writing of Jonathan Arnold, is in the *Papers of the Continental Congress*, No. 36, I, folio 459. The vote is indorsed on it.

extract of the letter quoted in the report of the committee of that day.

A motion was then made by Mr. [Alexander] Hamilton, seconded by Mr. [Daniel] Carroll, in the words following:¹

“Congress having in respect to the Articles of Confederation, admitted on their journals an entry of a motion made by Mr. [David] Howell, seconded by Mr. [Jonathan] Arnold, highly reflecting on derogatory to the honor and dignity of the United States in Congress assembled:

[Resolved, That a committee be appointed to report such measures as it will be proper for Congress to take thereupon.”]²

A motion was made by Mr. [Jonathan] Arnold, seconded by Mr. [David] Howell, to strike out the words “highly derogatory to the honor and dignity of the United States in Congress assembled:”

And on the question, shall the words moved to be struck out, stand? the yeas and nays being required by Mr. [Jonathan] Arnold,

<i>New Hampshire,</i>			<i>New Jersey,</i>	
Mr. Gilman,	ay	} ay	Mr. Boudinot,	ay
White,	ay		Clark,	ay
<i>Massachusetts,</i>			<i>Pennsylvania,</i>	
Mr. Osgood,	ay	} ay	Mr. Fitzsimmons,	ay
Gorham,	ay		Peters,	ay
<i>Rhode Island,</i>			Montgomery,	ay
Mr. Collins,	no	} no	<i>Delaware,</i>	
Arnold,	no		Mr. McKean,	ay
Howell,	no		<i>Maryland,</i>	
<i>New York,</i>			Mr. Carroll,	ay
Mr. Floyd,	ay	} ay	<i>Virginia,</i>	
Hamilton,	ay		Mr. Jones,	ay
			Madison,	ay

¹ The entries in the Journal for the balance of this day are by George Bond.

² This motion, in the writing of Daniel Carroll, the part in brackets being in the writing of Alexander Hamilton, is in the *Papers of the Continental Congress*, No. 36, I, folio 467.

<i>North Carolina,</i>			<i>South Carolina,</i>		
Mr. Nash,	ay	}	Mr. Ramsay,	ay	}
Williamson,	ay		Izard,	ay	
Blount,	ay		Gervais,	ay	

So it was resolved in the affirmative.

On the question to agree to the motion, resolved in the affirmative.

Members chosen for the foregoing committee, Mr. [John Taylor] Gilman, Mr. [Alexander] Hamilton, and Mr. [James] Madison.

The Committee of the week [Mr. Abraham Clark, Mr. John Collins and Mr. Nathaniel Gorham] report,

That Congress having lately determined on a memorial of Reyer Schermerhorn respecting his claims, that therefore his present memorial on the same subject be dismissed.¹

THURSDAY, DECEMBER 19, 1782

Ordered, That the order of the day for electing a Secretary for foreign affairs, be postponed till Thursday next.

On the report of a committee, consisting of Mr. [Abraham] Clark, Mr. [Thomas] Fitzsimmons, and Mr. [Daniel] Carroll, to whom was referred a letter of 12, from the Secretary at War, respecting the pay of artificers in Colonel Baldwin's regiment:

That they have examined the several resolutions of Congress establishing the pay of Artificers, and find that Col. Baldwin's regiment was originally raised at twelve dollars per month, but that on the 11th of February, 1778, the pay of Artificers was raised to twenty dollars per month, which augmentation it is presumed, was made on

¹ This report, in the writing of Abraham Clark, is in the *Papers of the Continental Congress*, No. 41, IX, folio 214, and is indorsed on Schermerhorn's memorial. The memorial, dated December 18, is on folio 213, and the indorsement shows that it was read the same day and dismissed.

On this day, according to the indorsement, was read a letter of November 16 from Jacob Cuyler, late Deputy Commissary General of Purchases, enclosing a letter, of November 8, from Isaac Tichenor. It was referred to Mr. [James] Madison, Mr. [Richard] Peters, Mr. [John Taylor] Gilman. It is in No. 78, VI, folio 155.

account of the depreciation of the bills of credit, at that time. That on the 12th of January, 1781, it was resolved that the Officers and men of the regiment of Artillery Artificers have the same pay from the 1st of August 1780 in bills of the new emissions, as was fixed in the bills of the old emissions by the regulation of the Department made by Congress on the 11th of February 1778.

That at the time of passing the last resolution Congress might not have recollected the reason that induced the augmentation made on the said 11th of February 1778, or might at that time have considered the bills of the new emissions in a depreciated state; in either case your Committee can discover no just reason for settling the pay of Artificers in specie—equal to the pay affixed in depreciated money, upon the whole your Committee report as follows:

Resolved, That all the artificers, who have not been settled with up to the last day of December, 1781, be settled with for pay and depreciation from the first day of August, 1780, to the last day of December, 1781, at the rate of twelve dollars per month, and upon such settlement receive their dues in funded certificates.¹

The committee, consisting of Mr. [David] Ramsay, Mr. [Abner] Nash, and Mr. [Richard] Peters, to whom was re-committed the draught of a supplementary ordinance for regulating the Post Office, reported another draught, which was read a first time, and to-morrow assigned for the second reading.

The Committee consisting of Mr [David] Ramsay, Mr [Abner] Nash and Mr [Richard] Peters, to whom were referred sundry papers respecting the Post Office Department—report,

That in their opinion the privilege of franking letters should be extended to all letters on public service to and from the Inspector General, the Adjutant General, the Director of the Hospitals, the Quartermaster General, the Commissary General of Prisoners, and the Paymaster General, and also to and from the heads of the like departments in any separate army.

¹ This report, in the writing of Abraham Clark, is in the *Papers of the Continental Congress*, No. 27, folio 219. The Secretary at War's letter is in No. 149, II, folio 199 and the Quartermaster General's letter, of December 6, which he enclosed, is on folio 195.

In order to prevent the multiplicity of franks becoming too burdensome to the public your Committee farther recommend that the allowance not exceeding twenty per cent on what would be the postage of free letters if they were charged be discontinued, and that in lieu thereof the public be charged with no farther Commissions on free letters, though they contain enclosures, than the officers of the Post Office department would be entitled to on the postage of the same number of single letters coming the same distance.

Your Committee further recommend, that that clause of the [ordinance of] 18th of October last which directs the Postmaster General or his deputies to furnish extraordinary expresses be repealed.

If Congress approve of these Sentiments they will please to order a new ordinance for the above purposes.¹

Ordered, That a Letter of December 12th from the Superintendent of Finance for settling the rate of foreign coins be referred to Mr. [Thomas] Fitzsimmons, Mr. [Samuel] Wharton, Mr. [John] Rutledge, Mr. [Alexander] Hamilton and Mr. [Nathaniel] Gorham.

That a committee, consisting of Mr. [Abraham] Clark, Mr. [Thomas] Fitzsimmons, Mr. [James] Madison, Mr. [Samuel] Wharton and Mr. [Nathaniel] Gorham, be appointed to enquire fully into the proceedings of the Office of Finance &ca. See November 21st.²

FRIDAY, DECEMBER 20, 1782

On the report of the committee [Mr. John Taylor Gilman, Mr. James Madison and Mr. Alexander Hamilton], appointed to report such measures as it will be proper for Congress to take in consequence of the motion made by Mr. [David] Howell on the 18 instant:

¹ This report, in the writing of David Ramsay, is in the *Papers of the Continental Congress*, No. 59, III, folio 373. According to the indorsement, it was read on the 18th, and agreed to on this day, and "referred back to the committee to report an Ordinance conformable thereto."

² These two orders were entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

On this day, according to the indorsement, was read a letter, dated December 10, from George Read, accepting the office of Judge of the Court of Appeals. It is in the *Papers of the Continental Congress*, No. 78, XIX, folio 439.

According to the indorsement the state of the Invalid regiment was this day referred to Mr. [Alexander] Hamilton, Mr. [Richard] Peters, Mr. [Daniel] Carroll together with the letter of October 29 from the Secretary at War on the subject. It is in No. 149, II, folios 81¹⁻⁸. See *ante*, October 30.

Resolved, That the said motion, with the preceding resolutions of Congress, to which it refers, be transmitted by the Secretary for foreign affairs to the executive authority of the State of Rhode Island, with an authenticated state of the several applications for foreign loans, and the result thereof.¹

On the report of a committee, consisting of Mr. [James] Madison, Mr. [Richard] Peters, and Mr. [John Taylor] Gilman, to whom were referred letters of Jacob Cuyler and Isaac Tichenor, on the subject of suits brought against the said Tichenor, for debts contracted by him on account of provisions furnished the troops in the service of the United States:

That the case of the said Isaac Tichenor is provided for by the resolutions of the 20th of Feby: and 19th of March last pointing out a mode of settlement of public accounts and recommending to the Legislatures of the respective States to pass laws to stay and prevent suits being brought by individuals against public officers who have contracted debts for supplies purchased for the army. The Committee therefore recommend the following Resolve,

Resolved, That copies of the letters of Jacob Cuyler and Isaac Tichenor, relative to suits brought against the said Tichenor, in New Hampshire, for debts contracted by him for supplies purchased for the service of the United States, be transmitted to and recommended to the attention of the said State.²

Mr. [Oliver] Ellsworth, and Mr. [Oliver] Wolcott, two delegates for the State of Connecticut, attended, and produced credentials, which were read, and by which it appears, that on the 2 Thursday of May, 1782, the day appointed by law or the choice of delegates, Samuel Huntington, esq. Oliver Ellsworth, esq. Richard Law, esq. Jesse Root, esq. Oliver Wolcott, esq. Benjamin Huntington, esq. and Jedediah

¹ This report, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 20, I, folio 233.

² This report, in the writing of Richard Peters, is in the *Papers of the Continental Congress*, No. 19, I, folio 627.

Strong, esq. were elected delegates to represent that State in the Congress of the United States.

At a General Assembly of the Governor and Company of [Seal] the State of Connecticut in America holden at Hartford on the second Thursday of May Anno Domini 1782.

This Day being appointed by Law for the Choice of Delegates to represent this State at the Congress of the United States, Proclamation was made, And then the Votes of the Freemen were given into the Persons appointed by the Assembly to receive sort and count them and declare the Names of the Persons legally Chosen to the Office aforementioned, which Persons so appointed were Andrew Adams Esq^r Maj^r Bray, M^r Beach Col^o Worthington Col^o St John M^r Felch Col^o Bebee and M^r Gore, who were sworn to a faithful discharge of that Trust. And the Votes of the Freemen being brought in sorted and counted, Samuel Huntington Esq^r Oliver Elsworth Esq^r Richard Law Esq^r Jesse Root Esq^r Oliver Wolcott Esq^r Benjamin Huntington Esq. & Jedediah Strong Esq. were Elected and publicly declared to be Delegates to Represent this State in the Congress of the United States according to Law.

A true Copy of Record

Examined

By GEORGE WYLLYS *Secret^y*.¹

The supplementary ordinance for regulating the Post Office was read a second time, and Monday next assigned for the third reading.

SATURDAY, DECEMBER 21, 1782

Mr. [Benjamin] Hawkins, a delegate for the State of North Carolina, attended, and took his seat in Congress.

The committee, consisting of Mr. [James] Madison, Mr. [John] Rutledge and Mr. [John Taylor] Gilman, appointed to confer with the Secretary for foreign affairs, on the subject of his department, report, That he is willing, if it be the desire of Congress, to remain in the said department until the ensuing spring, but that it will be necessary for him to

¹ The original is in the *Papers of the Continental Congress*, Connecticut, *Credentials of Delegates*. It was entered in No. 179, *Record of Credentials*, and not in the Journal.

make a short visit to the State of New York in the month of January, which the committee think will not probably interfere with the public business; Whereupon,

Resolved, That the election of a Secretary for foreign affairs be postponed until the first Monday in May next; and that Mr. Livingston be requested to continue to discharge the duties of that department until such election shall be made; and that he have leave of absence, for the purpose of making a visit to the State of New York.¹

On the report of the Superintendent of finance, to whom was referred a report of a committee, on a letter of the 2d of August, from the said Superintendent:

Resolved, That the commissioners for settling accounts according to the act of the 20th of February last, do receive lottery tickets as vouchers for the prizes which may have been drawn to such tickets, and certify the same as debts of the United States, at and after the rate of one dollar in specie for every forty dollars of such prizes.²

On the question to agree to the above, the yeas and nays being required by Mr. [John Taylor] Gilman,

<i>New Hampshire,</i>			<i>New York,</i>		
Mr. Gilman,	no	} no	Mr. Floyd,	ay	} ay
White,	no		Hamilton,	ay	
<i>Massachusetts,</i>			<i>New Jersey,</i>		
Mr. Gorham,	no	} *	Mr. Boudinot	ay	} ay
<i>Rhode Island,</i>				Clark	
Mr. Collins,	ay	} *	Elmer	ay	
<i>Connecticut,</i>				<i>Pennsylvania</i>	
Mr. Ellsworth,	no	} no	Mr. Fitzsimmons,	ay	} ay
Wolcott,	no		Montgomery,	ay	

¹ This report, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 25, II, folio 167.

This resolution and the preamble were also entered in the manuscript Secret Journal, Foreign Affairs.

² This report is in the *Papers of the Continental Congress*, No. 137, II, folio 65.

<i>Delaware,</i>			<i>North Carolina,</i>		
Mr. McKean,	ay	} ay	Mr. Hawkins,	ay	} ay
Wharton,	ay		Williamson,	ay	
<i>Maryland,</i>			Blount,	ay	
Mr. Carroll,	ay	*	<i>South Carolina,</i>		
<i>Virginia,</i>			Mr. Rutledge,	ay	} ay
Mr. Jones,	ay	} ay	Ramsay,	ay	
Madison,	ay		Izard,	ay	
			Gervais,	ay	

So it was resolved in the affirmative.

The Committee of the Week [Mr. Abraham Clark, Mr. John Collins and Mr. Nathaniel Gorham] report:

That as the petitioner's husband is, as set forth, on the public service, he will be settled with and paid in common with others in similar service, on which account no particular attention can be paid the petition that will afford the relief prayed for, and therefore the same be dismissed.¹

MONDAY, DECEMBER 23, 1782

The committee, consisting of Mr. [James] Madison, Mr. [Alexander] Hamilton, and Mr. Fitzsimmons [Thomas] McKean, to whom were referred a letter from Major General Greene, of the 28 October last, and sundry papers accompanying the same, having made the following report:²

That it appears from the papers referred, that the executive authority of the State of South Carolina, had claimed in behalf of the original owners, citizens of the said State, sundry horses re-captured on land, from the enemy, by a detachment of the forces of the United States, on the general principle "that original owners are entitled to restitution

¹ This report, in the writing of Abraham Clark, is in the *Papers of the Continental Congress*, No. 42, III, folio 249, indorsed on the petition of Elizabeth Green. The petition, folio 246, is undated, but the indorsement shows that it was considered and dismissed on this day.

² Greene's letter is in the *Papers of the Continental Congress*, No. 155, II, folio 552. It was referred, the indorsement says, on December 10, on which day it was read, to Mr. [James] Madison, Mr. [Alexander] Hamilton, Mr. [John] Rutledge.

of all re-captured property ;” that a council of war, to which the said claim was referred by Major General Greene, had decided against its validity, and that he has finally submitted the case to Congress.

On this subject the committee beg leave to observe, that by the 9 of the Articles of Confederation, the United States in Congress assembled, are invested with the sole and exclusive right and power *inter alia*, of “establishing rules for deciding in all cases what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States, shall be divided or appropriated,” which power, as it involves that of deciding on the right of the enemy to the property captured, necessarily extends to cases of re-capture:

That with respect to captures and re-captures on water, general provision hath been made by several ordinances and acts of Congress:

That with respect to captures on land, partial provision only hath been made; and for cases of re-capture on land, no provision at all, it having been left to the discretion of the military commanders to conform, in the cases omitted, to the general rules of justice and the customs of war, as observed by civilized nations:

That the particular case in question, having been decided in the mode practised in the army in like instances, cannot with propriety be re-judged by Congress, to whom is delegated in cases of capture, a legislative only, and not a judiciary authority:

That nevertheless, since it is both the duty and disposition of Congress, to render the arms of the United States as subservient as possible to the just interests of individuals, as well as to the general defence; and since restitution has been ordained to the original owners, in cases of re-capture on water of property previously captured by the enemy on land,

the committee are of opinion, that it is expedient to remit in favor of the original owners, the property re-captured by Colonel Kosciuszko, and retained for the use of the United States.

Upon this view of the subject, the committee propose the following resolutions:

1. That Congress approve of the steps taken by Major General Greene, in the case of the property re-captured on land by Colonel Kosciuszko, and claimed in behalf of the original owners, by the executive authority of the State of South Carolina, as stated in his letter of the 28 of October last:

2. That so much of the property re-captured as aforesaid, and accruing to the use of the United States, as shall be satisfactorily proven to have been captured from the inhabitants of the United States, be remitted to the original proprietors, excepting only so much, or the value thereof, not exceeding one fourth of the whole value, as the said Major General Greene may have promised, or may be deemed by him a proper compensation to the re-captors:

3. That leave be given to the committee to report an ordinance declaring in all cases what captures on land shall be legal, and in what manner the same shall be divided or appropriated.

~~That until such general provision shall be made, all property, dead victuals and provender of all kinds being excepted, which shall be recaptured on land from the enemy by forces in the service of the U. States and which shall be satisfactorily proven to have been previously captured from any individual State or without collusion captured or plundered from any inhabitant of the United State or to such inhabitant, on their paying therefor such sum not exceeding $\frac{1}{4}$ of its value, as may have been promised by the Commanding Officer of the Department to the recaptors, or as may be deemed by him a proper compensation to them; provided always that where slaves shall be so re-captured restitution shall be made without demand of such sum from the original owners, and provided that this~~

Negatived.

~~resolution shall not be construed to extend to property brought off from the enemy by deserters.¹~~

The question being taken on the first resolution, resolved in the affirmative.

When the second was under consideration, a motion was made by Mr. [John] Rutledge, seconded by Mr. [John Lewis] Gervais, to strike out the words "and accruing to the use of the United States:"

And on the question, shall those words stand? the yeas and nays being required by by Mr. [John Lewis] Gervais,

<i>New Hampshire</i>			<i>Delaware,</i>	
Mr. Gilman,	ay	} ay	Mr. McKean,	ay
White,	ay		Wharton,	ay
<i>Rhode Island,</i>			<i>Maryland,</i>	
Mr. Collins,	ay	} no	Mr. Carroll,	ay
Arnold,	no			
Howell,	no			
<i>Connecticut,</i>			<i>Virginia,</i>	
Mr. Ellsworth,	ay	} ay	Mr. Jones,	ay
Wolcott,	ay		Madison,	ay
<i>New York,</i>			<i>North Carolina,</i>	
Mr. Floyd,	no	} div.	Mr. Hawkins,	no
Hamilton,	ay		Williamson,	ay
<i>New Jersey,</i>			Blount,	ay
Mr. Boudinot,	ay	} no	<i>South Carolina,</i>	
Clark,	ay		Mr. Rutledge,	no
Elmer,	ay		Ramsay,	no
			Izard,	no
<i>Pennsylvania,</i>			Gervais,	no
Mr. Fitzsimmons,	ay	} ay		
Peters,	ay			
Montgomery,	ay			

So it was resolved in the affirmative.

The Committee consisting &c. to whom was referred the motion of Mr. [Richard] Peters with respect to keeping the information received by ~~and the parts of the~~ Congress or the proceedings of Con-

¹ This report, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 19, II, folio 497^b.

gress secret so far as the same may be ~~proper or~~ directed by ~~Congress~~ submit the following report.

That it has heretofore been thought expedient by a former Congress that each member on taking his seat should subscribe a ~~written~~ Declaration binding him in the most solemn manner to keep the secrets committed to him as a Member of Congress, and your Committee are of opinion that a similar practice is at least as necessary at this time as in any former period. They therefore propose the following ~~as a draft of a~~ declaration to be signed by each Member of the United States in Congress assembled at present acting therein and by all persons who shall hereafter take their seats as such.

I, A. B., do most solemnly pledge my faith and sacred honour, that I will on no account whatsoever divulge in the whole or in part any information received by Congress or any of their proceedings specially directed by the majority of the United States in Congress assembled to be kept secret, or which shall be by them declared to be in their nature secret, without previously obtaining the leave of Congress for that Purpose either by a general or special order; and that I will hold any person who shall violate this declaration as unworthy the society of men of honour and probity and of course an improper and faithless member of ~~the~~ a Body whose political ~~con-~~sequence influence and weight of character so much depends on the individual reputation of its members—and I do hold myself bound by this declaration as well while I shall remain a member of that body as after I shall become a private citizen.

Ordered, That all matters specially directed to be kept secret shall be noted particularly in the journals by the Secretary, that no mistakes may arise on the subject.

That all informations from or communications to the ministers of these States in foreign Parts and all Plans Designs or Information respecting intended military expeditions shall be in their nature deemed secret and not to be communicated without the special license of Congress.¹

¹ This report, in the writing of Richard Peters, is in the *Papers of the Continental Congress*, No. 23, folio 47. According to Committee Book No. 186, a committee, consisting of Mr. [Richard] Peters, Mr. [Hugh] Williamson and Mr. [John Taylor] Gilman, was appointed, December 23, "to report the rules heretofore observed by Congress with respect to keeping secret the information received by them or any part of their proceedings, and to report any further regulations which may be necessary to adopt on that subject." It does not appear when the report was presented.

On this day, according to the indorsement, a letter was read from General Washington, dated Head Quarters December 16, relative to Captain Asgill. It is in No. 152, XI, folio 41.

TUESDAY, DECEMBER 24, 1782

Congress resumed the consideration of the resolution under debate yesterday; and on the question to agree thereto, resolved in the affirmative.

A question being taken on the third resolution, resolved in the affirmative.

The supplementary ordinance for regulating the Post Office was read a third time, and passed as follows:

AN ORDINANCE FOR AMENDING AN ORDINANCE FOR REGULATING THE
POST OFFICE OF THE UNITED STATES OF AMERICA:

Whereas it hath been represented to Congress, since passing the ordinance for regulating the Post Office of the United States of America, that sundry alterations therein, and additions thereto, are necessary:

Be it ordained by the United States in Congress assembled, and it is hereby ordained by authority of the same, that the privilege of franking letters be, and the same is hereby, extended to the inspector general, the adjutant general, ~~the judge-advocate~~ the director of the hospitals, the quartermaster general, the commissary of prisoners, and the paymaster general of the army of the United States; and that the same privilege be, and the same is hereby, extended to the officers at the heads of the like departments in any separate army ~~and to the commissary of marine prisoners~~; all letters to and from whom, on public business, shall pass free of postage; and in order to prevent the multiplicity of franks becoming too burthensome to the public,

Be it ordained, and it is hereby ordained by the authority aforesaid, that the allowance, not exceeding twenty per cent. on what would be the postage of free letters if they were charged, be discontinued, and that the public be charged with no farther commissions on free letters, though they contain enclosures, than the officers of the Post Office would be entitled to on the postage of the same number of single letters coming the same distance:

And be it ordained by the authority aforesaid, that the clause in the ordinance of the 18th of October last, which directs the Postmaster General and his deputies to furnish extraordinary expresses be, and the same is hereby repealed. Done, &c.¹

¹ This ordinance, in the writing of Richard Peters, is in the *Papers of the Continental Congress*, No. 59, III, folio 363.

Resolved, That the quartermaster general furnish all extraordinary expresses when the service requires them, any ordinance or resolution of Congress to the contrary notwithstanding.

On motion of Mr. [John] Rutledge, seconded by Mr. [Thomas] Fitzsimmons,

Resolved, That the Postmaster General be directed to continue the southern post to Savannah, in Georgia; and that the Superintendant of finance furnish the money necessary for that purpose.¹

Congress having received information that the State of Virginia has repealed its law agreeing to the duty on imports and prizes:

Resolved, That the deputation to Rhode Island be for the present suspended; and that a committee be appointed to report such further measures as it may be proper for Congress to take upon the subject at large.²

The Grand Committee to whom were referred a letter from the Legislature of Massachusetts Bay of Oct^r. 21, and a motion of Mr. [Samuel] Osgood, submit the following resolves, viz.

Resolved, That Individuals in each State who are possessed of Continental paper money be entitled to receive from the Comm^r. who is or shall be appointed to settle the accts. of the Several States and of individuals therein against the U. States a Specie certificate for all such sums of the said money, as they shall respectively pay into the hands of such Commissioner, at the rate of one silver dollar for every ~~forty~~ ——— continental dollars. The certificates to bear interest of 6 per cent from the date and be provided for, as other public debts are; but that no money shall be recd. or certificates granted by the said Commissioner after the last day of Dec. 1783.

Resolved, That the States which have not sunk the proportions assigned to them of the Continental money be charged with the

¹ This motion, in the writing of John Rutledge, is in the *Papers of the Continental Congress*. No. 36, I, folio 473.

² According to Committee Book No. 186, *Papers of the Continental Congress*, the committee consisted of Mr. [Alexander] Hamilton, Mr. [Thomas¹ Fitzsimmons, and Mr. [James] Madison.

deficiency or the amount of what they have not sunk at the rate aforesaid.¹

FRIDAY, DECEMBER 27, 1782

Mr. [Silas] Condict, a delegate for New Jersey, attended and took his seat.

On a report from the Secretary for foreign affairs, to whom were referred sundry letters from Dr. Franklin and Mr. J. Adams:

Resolved, That Dr. Franklin be informed that the allowance he has heretofore made and now makes to Mr. William Temple Franklin, acting in the character of his secretary, meets the approbation of Congress: and that his future allowance be three hundred louis d'ors per annum, until the farther order of Congress.

Resolved, That Mr. Adams be informed that Congress agree to the purchase he has made of a house at the Hague, on account of the United States, and direct him to take measures for transferring to them the title thereof. That on his furnishing an account of the balance still due on such purchase, the Superintendent of finance take order for the payment thereof.²

[Motion of Mr. David Howell.]

Resolved, That the Secretary for Foreign Affairs be directed to transmit to the Executive of the State of Rhode Island copies of the following extracts of letters from the Minister at the Court of Versailles, viz. From a letter dated Passy Sep^r 3, 1782. "It affords me much satisfaction to find the conduct of Congress approved by all that hear and speak of it, and to see all the marks of a constantly growing regard for us and confidence in us among those in whom

¹ This report, in the writing of John Rutledge, is in the *Papers of the Continental Congress*, No. 20, I, folio 141. According to the indorsement it was read December 24, 1782, Tuesday next assigned for the consideration, and on December 31 postponed. It is in the list of postponed reports in No. 31, folio 371⁴.

² These resolutions were also entered in the manuscript Secret Journal, Foreign Affairs, and in Secret Journal No. 4.

such sentiments are most to be desired," and from another dated Passy Aug^t 12, 1782 "All ranks of this nation appear to be in good humour with us and our reputation rises throughout Europe."

MONDAY, DECEMBER 30, 1782

His Excellency the President having informed Congress that the honorable T. Jefferson was arrived in town:

Ordered, That Mr. Jefferson have access to the several offices of Congress, in order that he may gain a knowledge of the affairs of the United States, and prepare himself for the execution of the trust reposed in him.²

The committee, consisting of Mr. [Alexander] Hamilton, Mr. [Abraham] Clark, and Mr. [Daniel] Carroll, to whom was referred a letter of the 5th, from Major General the Baron de Steuben, having conferred with him thereupon, submit to the consideration of Congress the following facts, resulting from the communications made to them, supported by the testimonials of the Commander in Chief and many other principal officers of the army:

1st. That the Baron de Steuben was in Europe possessed of respectable military rank, and different posts of honor and emolument, which he relinquished to come to America and offer his services at a critical period of the war, and without any previous stipulations:

2dly. That on his arrival he actually engaged in the army in a very disinterested manner, and without compensations similar to those which had been made to several other foreign officers:

3dly. That under singular difficulties and embarrassments in the department in which he has been employed, he has rendered very important and substantial services, by introducing into the army a regular formation and exact dis-

¹ This motion, in the writing of David Howell, is in the *Papers of the Continental Congress*, No. 36, I, folio 475. The indorsement shows that it was presented this day.

² This resolution was also entered in the manuscript Secret Journal, Foreign Affairs.

cipline, and by establishing a spirit of order and economy in the interior administration of the regiments; which, besides other advantages, have been productive of immense savings to the United States; that in the commands in which he has been employed, he has upon all occasions conducted himself like a brave and experienced officer: the committee are therefore of opinion, that the sacrifices and services of the Baron de Steuben, justly entitle him to the distinguished notice of Congress, and to a generous compensation, whenever the situation of public affairs will admit: the committee farther report, that the Baron de Steuben has considerable arrearages of pay due to him from these states on a liquidated account, and that having exhausted his resources in past expences, it is now indispensable that a sum of money should be paid him for his present support, and to enable him to take the field another campaign, and propose that the sum of two thousand four hundred dollars be paid to him for that purpose, and charged to his account aforesaid; Whereupon,

Resolved, That the foregoing proposal of the committee be referred to the Superintendent of finance to take order.

The committee farther observing, that from the nature of the department in which the Baron de Steuben is employed, he is under the necessity of making frequent journies, by which he incurs an additional expence, and is often deprived of the allowance of forage to which he is entitled; thereupon,

Resolved, That the Baron de Steuben be allowed three hundred dollars per month, in lieu of his extra pay and of subsistence and forage for himself and family, including waggon as well as saddle horses; and that these allowances hereafter cease.¹

On the report of a committee, consisting of Mr. [Thomas] Fitzsimmons, Mr. [James] Madison, and Mr. [John] Rutledge, to whom were referred a letter of October 9, from Major

¹ This report, in the writing of Alexander Hamilton, is in the *Papers of the Continental Congress*, No. 19, V, folio 523. Steuben's statement of his claims is on folios 557-564.

General Greene, and one of the 5, from Brigadier General Wayne, with sundry papers enclosed:

The Committee to whom was referred the letter of Major General Greene of the 9th October with one of the 5th from General Wayne and its enclosures, Report,

That it appears to your Committee that on the 9th day of August last an agreement was entered into by Brigadier General Wayne on the part of the United States, and sundry Merchants subjects of the Crown of Great Britain then residing in Savannah, by which it was stipulated that the said Merchants should be permitted to remain in Safety after the evacuation of that post by the British forces—and to dispose of their goods and effects to the Inhabitants of the United States and should have permission to export any produce of the State of Georgia (to the amount of the goods which they should so dispose of) to the nearest British post without let or molestation.

And it appearing to this Committee that the agreement aforesaid was entered into by the advice or concurrence of the Executive of the State and upon similar principles, with that entered into by the Com^o in Chief at Yorktown, and that in consequence thereof a number of Merchants has remained with their property in full confidence that the agreement on the part of the United States will be faithfully executed, we cannot but declare it to be our opinion that the agreement or Convention so entered into should be ratified and confirmed.

If Congress are of that opinion they will be pleased to Resolve, that

Whereas Brigadier General Wayne, commanding a detachment of the army of the United States, did, as appears by his proclamation of the 9th day of August last, with the advice and approbation of the governor and executive of the State of Georgia, enter into certain articles of agreement with sundry merchants, subjects of the Crown of Great Britain, then residing in Savannah, whereby it was provided that the said merchants should be permitted to remain unmolested with their effects, and to dispose thereof to the citizens of the United States, and after having so disposed of them, to export produce of the State of Georgia, to the amount of the goods so disposed of, to the next British post,

And Congress judging it proper to preserve inviolate the faith of her officers do therefore resolve,

Resolved, That the convention or agreement entered into between Brigadier General Wayne and sundry inhabitants of the town of Savannah, subjects of the Crown of Great Britain, respecting the safety of their persons and property, and the exportation of produce of the State of Georgia, to the amount of the goods which they have or may dispose of to the citizens of the United States, to the nearest British post, be, and is hereby ratified; and that all commanders of armed vessels, in the service of the United States, or belonging to any of the inhabitants thereof, do pay due regard to the passports which have or shall be given by the governor of the State of Georgia for the purposes aforesaid.¹

CAMP, December 22, 1782.

SIR,

I omitted to report on the motion respecting the appointments of Brigadiers, before I left Philadelphia, as I expected soon to see His Excellency General Washington, and know from him the number which would be necessary.

I find that two will be requisite to command the two brigades in the Massachusetts Line, to which there are no brigadiers, and one to command the Jersey Line.

Should Congress think proper to promote Brigadier General Clinton, for which event he is now waiting, and declines taking command of his brigade, as he supposes himself superceeded, an appointment for the New York Line will be necessary also.

By the late regulation of the department of Adjutant General, all appointments cease on the first day of January next. I hope Congress will immediately fill the office of Adjutant General. I am happy to inform them that General Hand, if reappointed, will continue in office.²

¹ This report, in the writing of Thomas Fitzsimmons, is in the *Papers of the Continental Congress*, No. 19, II, folio 493. A copy is on folio 497^a. Greene's letter is in No. 155, II, folio 537 and Wayne's on folio 541.

² This report, from the Secretary of War, is in the *Papers of the Continental Congress*, No. 149, II, folio 209. According to the indorsement, it was read on this day, and referred to Mr. [Thomas] Fitzsimmons, Mr. [James] Madison and Mr. [Alexander] Hamilton.

A letter from the Secretary at War, dated Head Quarters, 24 December, relative to the new arrangement of the army and enclosing a letter from the Commander in Chief on the same subject, was read on this day and referred to the above committee. The Secretary's letter is on folio 217, and the enclosure on folio 213.

TUESDAY, DECEMBER 31, 1782

Mr. [David] Howell, a delegate for Rhode Island, having ~~desired~~ requested that the letters of 8 April and 12 of August last, from Dr. Franklin to the Superintendent of finance, which were read in Congress the 27 instant, be sent for; and the same being laid before Congress and read:

Motion of Mr [David] Howell,

To take such extracts except what was written in cypher and make such use of them as he thinks proper—withdrawn.

Ordered, That the Superintendent of finance lay before Congress such extracts from Dr. Franklin's letters of 8 April and 12 August last, as Mr. Howell shall point out to him.¹

On the report of a committee, consisting of Mr. [Thomas] Fitzsimmons, Mr. [James] Madison and Mr. [Alexander] Hamilton, to whom were referred letters of the 22 and 24 from the Secretary at War:

Resolved, That the resolutions of the 7th of August last, so far as relates to the lines of New Hampshire, Rhode Island and New Jersey ~~and Pennsylvania~~, be suspended till the first day of March next: [and also, as to the Pennsylvania line, so far as to retain in service only the officers necessary to the compleating of three regiments.]²

The Committee to whom was referred the letter from the Secretary at War of the 22nd instant, report,

That it will be advisable to promote ~~Major-General Lincoln~~ B. General Clinton to the rank of Major General and to continue Brigadier General Hand in the office of Adjutant General.³

Resolved, That Brigadier General Hand be, and he is hereby continued in the office of adjutant general.

¹ This motion, the first paragraph in the writing of Charles Thomson, and the second in that of Elias Boudinot, is in the *Papers of the Continental Congress*, No. 36, I, folio 469.

² This report, in the writing of Alexander Hamilton, except the part in brackets, which is in that of Elias Boudinot, is in the *Papers of the Continental Congress*, No. 27, folio 223.

³ This report, in the writing of Alexander Hamilton, is in the *Papers of the Continental Congress*, No. 19, III, folio 23. The indorsement shows that the part about Clinton was recommitted.

On the report of a committee, consisting of Mr. [James] Madison, Mr. [John] Rutledge, Mr. [Abraham] Clark, Mr. [Alexander] Hamilton and Mr. [Samuel] Osgood, to whom was referred a letter of 14 October last from the minister plenipotentiary at the Court of Versailles,

Resolved, That the ministers plenipotentiary for negotiating a peace be instructed in any commercial stipulations with Great Britain, which may be comprehended in a treaty of peace, to endeavour to obtain for the citizens and inhabitants of the United States a direct commerce to all parts of the British dominions and possessions, in like manner as all parts of the United States may be opened to a direct commerce of British subjects, or at least that such direct commerce be extended to all parts of the British dominions and possessions in Europe and the West Indies, and the said ministers are informed that this stipulation will be particularly expected by Congress, in case the citizens and subjects of each party are to be admitted to an equality in matters of commerce with natives of the other party.¹

OFFICE OF FINANCE 3^d Dec^r. 1782

SIR,

Congress on the twentieth of last month were pleased to order that I should report what progress has been made in the settlement of the public accounts pursuant to the resolutions of the twentieth and twenty-seventh of February last and what causes impede the execution of the Plan. In Consequence of this order I am to report,

That I have sedulously endeavoured to obtain proper persons as Commissioners. That I early applied to a Gentleman in this City to undertake the settlement of the Marine Accounts. That this Gentleman (in

¹ This report, in the writing of James Madison, is in the *Papers of the Continental Congress*, No. 25, II, folio 171; it was entered only in the manuscript Secret Journal, Foreign Affairs, and in Secret Journal No. 4. A copy is in Secret Journal No. 6, Vol. III.

Franklin's letter, of October 14, is printed in the *Diplomatic Correspondence of the American Revolution*, (Wharton) V, 811.

every respect competent) declined only from the Deficiency of the Salary. That under the act of the twenty-seventh of February four Commissioners out of five are appointed, the Marine Accounts being alone unprovided for. That under the act of the twentieth of February I have recommended Persons as Commissioners to the States of New Hampshire, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia. That those of Connecticut, New Jersey, Maryland, and Virginia are approved of. That I do not yet know whether those named to the other States are or are not approved of. That altho no Persons have yet offered for the three Southern States I am in hopes that the prospect of approaching tranquility in those States will enable me to get Persons properly qualified. That no Person has yet been found to undertake settling the accounts of Massachusetts; and that the person who was recommended to the State of Maryland has resigned the office assigning as a reason that he could not obtain the Accounts of the State so as to proceed on the business of his Department.¹

Ordered, That a report of the Superintendant of Finance of the 3d of December respecting the progress made in the settlement of public accounts pursuant to the [resolutions of the] 20th and 27th of February be referred to Mr. [Daniel] Carroll, Mr. [Thomas] Fitzsimmons and Mr. [Samuel] Osgood.²

¹ This report is in the *Papers of the Continental Congress*, No. 137, II, folio 59. According to the indorsement it was read December 4, and on December 31 referred to Mr. [Daniel] Carroll, Mr. [Thomas] Fitzsimmons and Mr. [Samuel] Osgood.

² This order was entered only in the journal kept by the Secretary of Congress for the Superintendent of Finance: *Morris Papers, Congressional Proceedings*.

On this day, according to the indorsement, a letter of December 28 from Duportail was read. It is in the *Papers of the Continental Congress*, No. 164, folio 358.

NOTES OF DEBATES IN THE CONTINENTAL
CONGRESS, BY JAMES MADISON.

NOTES OF DEBATES.

IN CONGRESS, NOVEMBER 4TH 1782, MONDAY.

Elias Boudinot was chosen President by the votes of N. Hampshire represented by John Taylor Gilman and Phillips White—Rhode Island by Jonathan Arnold and David Howell—Connecticut by Benjamin Huntington & Eliphalet Dyer—N. Jersey by Elias Boudinot & John Witherspoon—Pennsylvania by Thomas Smith, George Clymer and Henry Wynkoop—Delaware by Thomas McKean & Samuel Wharton—Maryland by John Hanson, Daniel Carroll & William Hemsley. The votes of Virg^a represented by James Madison & Theodorick Bland & of S. Carolina represented by John Rutledge, Ralph Izard, David Ramsay, & John Lewis Gervais, were given to Mr. Bland—The vote of N. York represented by James Duane and Ezra L'Hommedieu to Abner Nash. The vote of N. C. by Abner Nash, Hugh Williamson & William Blount to John Rutledge. Massachusetts having no Delegate but Samuel Osgood had no vote. Georgia had no Delegate.

A Letter dated Oct: 30— 1782 from Ge^l Washington, was read, informing Congress of his putting the army into Winter Quarters, & of the sailing of 14 ships of the line from N. York, supposed to be for the W. Indies & without Troops.

d^e July 8 from Mr. Carmichael at St. Ildefonso informing Congress of the good effect in Europe of the rejection of the proposal of Carleton, by Congress & the States; that the King of Spain speaking of this news at table praised greatly the probity of the Americans, raising his voice in such a manner that all the foreign Ministers might hear him. Mr. Carmichael adds that He had discovered that the Imperial & Russian Ministers by directions from their Courts had renewed their offered mediation to His M. C. M. and that he suspected England was at the bottom of it.—Quere.

do. Nants Sep^r 5. from M^r Laurens, notifying his intention to return to America; that being so advised by his friends he had applied to the C^t of London for a passport via Falmouth; that Cornwallis had interested himself therein & that the passport had been promised.

TUESDAY NOV^R 5.

A Resolution passed authorizing Gen^l Washington to obtain the exchange of 2 foreign officers notwithstanding the Resolⁿ of the 16 of Oc^r declaring that Congress will go into no partial exchanges until a general cartel be settled *on national* principles. This measure passed without due consideration by the votes of N. H., R. I., Cont: Del: Maryland N. C. & S. C. On the motion of Mr. Osgood it was reconsidered in order to refer the case to the Sec^r of War & Gen^l Washington to take order. By Mr. Madison opposition was made agst: any partial exchange in the face of the solemn declaration passed on the 16 Oc^r, as highly dishonorable to Congress, especially as that declaration was made in order to compel the enemy to a national convention with the U. S. All exchanges had been previously made on the part of the former by the Military authority of their Generals. After the letter of Genl. Carleton & Admiral Digby notifying the purpose of the British King to acknowledge our Independence, it was thought expedient by Congress to assume a higher tone. It was supposed also at the time of changing this mode that it would be a test of the enemy's sincerity with regard to Independence. As the trial had been made & the British Com^{mander} either from a want of power or of will had declined treating of a cartel on national ground, it would be peculiarly preposterous & pusilanimous in Congress to return to the former mode. An adjournment suspended the vote on the question for referring the case to the Se^r & General to take order.

WEDNESDAY, NOV^R 6th.

No Congress.

THURSDAY, NOV^R 7.

On the reconsideration the Resol: for exchanging the two for: officers its repeal was unanimously agreed to.

A motion was made by Mr. Osgood to assign an early day for filling up the vacancy in the Court of Appeals. It was opposed on the principle of œconomy, and the expedient suggested by Mr. Duane, of empowering a single Judge to make a Court *until the public finances would better bear the expence*. In favor of the motion it was argued 1. that the proceedings of the Court were too important to be confided to a single Judge. 2. that the decisions of a single judge would be less satisfactory in cases where a local connection of the judge subsisted with either of the parties. 3. that a single judge would be

more apt by erroneous decisions to embroil the U. S. in disputes with foreign powers. 4. that if there were more than one Judge, & one formed a court, there might at the same time be two interfering jurisdictions, and that if a remedy could be applied to this difficulty, the course of decisions would unavoidably be less uniform, & the provision of the confederation for a court of universal appellant Jurisdiction so far contravened. 5. as there was little reason to expect that the public finances wd. during the war be more equal to the public burdens than at present, and as the cases within the cognizance of this court would cease with the war, the qualification annexed to the expedient ought to have no effect. The motion was disagreed to & a committee which had been appointed to prepare a new ordinance for constituting the Court of Appeals, was filled up & instructed to make report.—on the above motion an opinion was maintained by Mr. Rutledge that as the court was according to the ordinance in force to consist of three Judges any two of whom to make a court, unless three were in actual appointment the decisions of two were illegal.

Congress went into the consideration of the report of the Committee on the case of Capt. Asgill the British officer allotted to suffer retaliation for the murder of Capt. Huddy. The report proposed

“That considering the letter of the 29th of July last from the Count de Vergennes to Genl. Washington interceding for Capt. Asgill, the Commander-in-Chief be directed to set him at liberty.”

Previous to the receipt of this letter from the Count de Vergennes Congress had been much divided as to the propriety of executing the retaliation, after the professions on the part of the British commanders, of a desire to carry on the war on humane principles, and the promises of S^r G. Carleton to pursue as effectually as possible the real authors of the murder; some supposing that these circumstances had so far changed the ground that Congress ought to recede from their denunciations, others supposing that as the condition of the menace had not been complied with, and the promises were manifestly evasive, a perseverance on the part of Congress was essential to their honor & that moreover it would probably compel the enemy to give up the notorious author of the confessed murder. After the receipt of the letter from the Count de Vergennes, Congress were unanimous for a relaxation. Two questions however arose on the report of the committee. The 1st was on what considerations the discharge of Cap. Asgill ought to be grounded. On this question a diversity of opinions existed. Some concurred with the committee in resting

the measure entirely on the intercession of the French Court: alledging that this was the only plea that could apologize to the world for such a departure from the solemn declarations made both by Congress and the Commander in Chief. Others were of opinion that this plea if publicly recited would mark an obsequiousness to the French Court and an impeachment of the humanity of Congress, which greatly outweighed the circumstance urged in its favor; and that the disavowal of the outrage, by the British Genl. and a solemn promise to pursue the guilty authors of it, afforded the most honorable ground on which Congress could make their retreat; others again contended for an enumeration of all the reasons which led to the measure; lastly others were against a recital of any reasons & for leaving the justification of the measure to such reasons as would occur of themselves. This last opinion after considerable discussions prevailed, and the Resol. left as it stands on the Journals. The 2^d question was whether this release of Cap: Asgill should be followed by a demand on Ge^l Carleton to fulfil his engagement to pursue with all possible effect the authors of the Murder.

On one side it was urged that such a demand would be nugatory after the only sanction which could enforce it had been relinquished; that it would not be consistent with the letter of the Count de Vergennes which solicited complete oblivion, and that it would manifest to the public a degree of confidence in British faith which was not felt and ought not to be affected.

On the opposite side it was said that after the confession & promise of justice by Ge^l Carleton, the least that could be done by Ge^l Washington would be to claim a fulfilment; that the intercession of C^t de Vergennes extended no farther than to prevent the execution of Capt: Asgill, and the substitution of any other innocent victim; and by no means was meant to shelter the guilty; that whatever blame might fall on Congress for seeming to confide in the promises of the enemy, they would be more blamed if they not only dismissed the purpose of retaliating on the innocent, but at the same time omitted to challenge a promised vengeance, on the guilty, that if the challenge was not followed by a compliance on the part of the enemy, it would at least promulge and perpetuate, in justification of the past measures of Congress, the confessions & promises of the enemy on which the challenge was grounded; & would give weight to the charges both of barbarity and perfidy which had been so often brought ag^t them.

In the vote on this question, 6 States were in favor of the demand & the others either divided or against it.

FRIDAY, NOV^r 8.

The preceding question having been taken again, on a farther discussion of the subject. There were in favor of the demand, N. H., R. I., N. Y. P^a Del. Mary^d Virga. & of the other States some were divided.

A motion was made by Mr. Rutledge of S. C. "That the Co^mider in chief & of the S. Department be respectively directed whenever the Enemy shall commit any act of cruelty or violence contrary to the laws & usage of war on the Citizens of these States to demand adequate satisfaction for the same, and in case such satisfaction shall not be immediately given, but refused or evaded under any pretext whatsoever, to cause suitable retaliation to be forthwith made on British officers without waiting for directions from Congress on the subject."

When this motion was first made it was espoused by many; with great warmth in particular by the Delegates of N. C. & S. C., as necessary to prevent the delays & uncertainties incident to a resort by the Military Commanders to Congress, and to convince the enemy that notwithstanding the dismission of Capt: Asgill the general purpose of retaliation was firmly retained.

Against the motion it was objected 1. that the time & place in which it stood would certainly convey an indirect reprehension of Gen^l Washington for bringing before Congress the case of Capt: Asgill & Huddy: 2. that it manifested a distrust in Congress which however well founded it might be with respect to retaliation ought not to be proclaimed by themselves. 3. that political & national considerations might render the interference of the Supreme authority expedient, of w^{ch} the letter from C^t de Vergennes in the late case furnished an instance; that the resort of the Military Commanders to the Sovereign for direction in great and difficult cases, such as those of retaliation would often prove, was a right of which they ought not to be deprived; but in the exercise of which they ought rather to be countenanced. These objections reduced the patrons of the motion to the Delegates of N. C. & S. C. alone or nearly so. In place of it the declaratory motion on the Journals was substituted. This again was objected to as implying that in the cases of retaliation taken up by the Mil^l commanders, they had proceeded on doubtful authority. To remove this objection, the amendment was proposed, limiting the preamble to the single act of discharging Capt: Asgill. This however was not entirely satisfactory because that particular

act could have no constructive influence on the Reputed authority of the Generals. It was acceded to by the votes of several who were apprehensive that in case of rejecting it, the earnestness of some might obtrude a substitute less harmless, or that the Resolution might pass without the preamble, & be more offensive to the Commander in Chief. The first apprehension was the prevailing motive with many to agree to the proposition on the final question.

This day a letter was rec^d from Ge^l Washington, inclosing one of the 25 of Oc^r from S^r G. Carleton relative to the demand made on him for a liquidation of acc^{ts} and payment of the balance due for maintenance of Prisoners of war, in which the latter used an asperity of language so much the reverse of his preceding correspondence that many regard it as portending a revival of the war against the U S.

SATURDAY & MONDAY.

No Congress.

TUESDAY 12 NOV^r

The reappointment of M^r Jefferson as Minister Plenipo: for negotiating peace was agreed to unanimously and without a single adverse remark. The act took place in consequence of its being suggested that the death of M^r J. had probably changed the sentiments of M^r J. with regard to public life, & that all the reasons which led to his original appointment still existed and indeed, had acquired additional force from the improbability that Mr. Laurens would actually assist in the negotiation.

“A motion was made by Mr. Rutledge declaring that when a matter was referred to any of the departments *to take order*, it was the sense & meaning of Congress that the same should be carried into execution.” On this motion some argued that such reference amounted to an absolute injunction, others insisted that it gave authority, but did not absolutely exclude discretion in the Executive Departments. The explanation which was finally acquiesced in as most rational & conformable to practice was that it not only gave authority, but expressed the sense of Congress that the measure ought to be executed: leaving it so far however in the discretion of the Executive Department, as that in case it differed in opinion from Congress it might suspend execution & state the objections to Congress that their final direction might be given. In the course of debate it was observed by Mr. Madison that the practice of referring matters to

take order, especially where money was to be issued, was extremely exceptionable inasmuch as no entry of such proceedings was made on the Journals, but only noted in a memorandum book kept by the Secretary, and then sent to the Department with the reference to take order indorsed by the Secy. but not signed by him. So that the transaction even where public in its nature, never came before the public eye, & the Dep^t was left with a precarious voucher for its justification. The motion was in the end withdrawn, the mover alledging that as he only aimed at rendering an uncertain point clear, & this had been brought about by a satisfactory explanation, he did not wish for any Resolution on the subject.

WEDNESDAY 13 NOV^R

No Congress.

THURSDAY 14 NOV^R

The proceedings were confined to the Report of the Committee on the case of Vermont entered on the Journals. As it was notorious that Vermont had uniformly disregarded the Recommendation of Congress, of 1779, the Report which ascribed the evils prevalent in that district to a late act of N. Y. which violated that recommendation was generally admitted to be unjust & unfair. Mr. Howel was the only member who openly supported it. The Delegates from N. Y. denied the fact that any violation had been committed on the part of that State. The temper of Congress on this occasion as the yeas & nays shew, was less favorable to Vermont than on any preceding one,—the effect probably of the territorial Cession of N. York to the U. S. In the course of the debate Mr. Howel cited the case of Kentucky as somewhat parallel to that of Vermont, said that the late erection of a separate Court by Virg^a for the former resembled the issuing of Commissions by N. Y. to the latter that the jurisdiction would probably be equally resisted & the same violences would follow as in Vermont. He was called to order by Mr. Madison. The President & the plurality of Congress supported and enforced the call.

No Congress till

Nov^r Monday 18 } The Journals sufficiently explain the proceed-
 Tuesday 19 } ings of those days.

WEDNESDAY NOV^r 20th

Congress went into consideration of the Report of A Committee consisting of Mr. Carrol, Mr. McKean & Mr. Howel on two Memorials from the Legislature of Pennsylvania. The Memorials imported a disposition to provide for the Creditors of the U. S. within the State of Pen^a out of the Revenues allotted for Congress, unless such provision could be made by Congress. The Report as an answer to the Memorials acknowledged the merit of the public Creditors, professed the wishes of Congress to do them justice; referring at the same time to their recommendation of the Impost of 5 Per C^t, which had not been acceded to by all the States; to the requisition of 1,200,000 D^r, for the payment of one year's interest on the public debt, and to their acceptance of the territorial cession made by N. Y. After some general conversation in which the necessity of the Impost as the only fund on which loans could be expected & the necessity of loans to supply the enormous deficiency of taxes, were urged, as also the fatal tendency of the plan intimated in the Memorials, as well to the Union itself, as to the system actually adopted by Congress, the Report was committed.

A motion was made by Mr. Rutledge, 2^ded by Mr. Williamson, to instruct the committee to Report the best mode of liquidating the domestic debts, and of obtaining a valuation of the land within the several States, as the Article of Confederation directs—The first part of the instruction was negatived, provision having been previously made on that head. In place of it the Superintendent^e of Finance was instructed to report the causes which impede that provision. The 2^d part was withdrawn by the mover. A committee however was afterwards appointed, consisting of Mr. Rutledge, Mr. Nash Mr. Duane Mr. Osgood & Mr. Madison, to report the best scheme for a valuation.

THURSDAY, NOV^r 21.

A report was made by a Committee to whom had been referred several previous reports & propositions relative to the salaries of foreign Ministers, delivering it as the opinion of the Committee that the Salaries allowed to Ministers Plenipo^{ar} to wit £2500 Sterlg. would not admit of reduction; but that the sal^y allowed to Secretaries to legations, to wit £1000. Sterl^g, ought to be reduced to £500. This Committee consisted of Mr. Duane, Mr. Izard & Mr. Madison the last of whom disagreed to the opinion of his colleagues as to the reduction of the £2500 allowed to M^{rs} Plenipo^{ar}

Agst a reduction it was argued that not only justice, but the dignity of the U. S. required a liberal allowance to foreign servants; that gentlemen who had experienced the expence of living in Europe did not think that a less sum would be sufficient for a Decent style; and that in the instance of Mr. A. Lee, the expences claimed by him & allowed by Congress exceeded the fixed salary in question.

In favor of a reduction were urged the poverty of the U. S., the simplicity of Republican Governments, the inconsistency of splendid allowances to Ministers whose chief duty lay in displaying the wants of their Constituents and soliciting a supply of them; and, above all, the policy of reconciling the army to the œconomical arrangements imposed on them, by extending the reform to every other Department.

The result of this discussion was a reference of the Report to another Committee, consisting of Mr. Williamson, Mr. Osgood & Mr. Carrol.

A motion was made by Mr. Howel, 2^ded by Mr. Arnold, recommending to the several States to settle with & satisfy at the charge of the U. S. all such temporary corps as had been raised by them respectively with the approbation of Congress. The repugnance which appeared in Congress to go into so extensive & important a measure at this time, led the mover to withdraw it.

A motion was made by Mr. Madison seconded by Mr. Jones, "That the Sec^y of F. Affairs be authorized to communicate to For^{gn} Ministers who may reside near Congress, all such articles of Intelligence rec^d by Congress as he shall judge fit & that he have like authority with respect to acts & Resolutions passed by Congress; reporting nevertheless the communications which, in all such cases, he shall have made."

It was objected by some that such a Resolution was unnecessary, the Sec^y being already possessed of the authority; it was contended by others that he ought previously to such communication, to report his intention to do so; others again were of opinion that it was unnecessary to report at all.

The motion was suggested by casual information from the Sec^y, that he had not communicated to the French Minister the reappointment of Mr. Jefferson, no act of Congress having empowered or instructed him to do so.

The motion was committed to Mr. Williamson Mr. Madison & Mr. Peters.

FRIDAY, NOV^r 22.

A considerable time previous to this date a letter had been rec^d by Congress from Mr. H. Laurens, informing them of his discharge from captivity, and of his having authorized in the British Ministry an expectation that Earl Cornwallis s^d in return be absolved from his parole. Shortly after a letter from Doc^t Franklin informed Congress that at the pressing instance of Mr. L., and in consideration of the offer of Gen^l Burgoyne for Mr. L. by Congress, as well as the apparent reasonableness of the thing, he had executed an instrument setting Cornwallis at liberty from his parole, until the pleasure of Congress should be known. These papers had been committed to M^r Rutledge M^r Montgomery & M^r Madison, who reported in favor of the ratification of the measure, against the opinion however of Mr. Rutledge the first member of the Committee. The Report after some discussion had been recommitted & had lain in their hands, until being called for, it was thought proper by the Committee to obtain the sense of Congress on the main question whether the act s^d be ratified or annulled; in order that a report might be made correspondent thereto. With this view a motion was this day made by Mr. Madison, 2^ded by Mr. Osgood that the Committee be instructed to report a proper act for a ratification of the measure. In support of this motion it was alledged, that whenever a public minister entered into engagements without authority from his Sovereign, the alternative which presented itself was either to recall the minister, or to support his proceedings, or perhaps both; that Congress had by their Resolution of the [seventeenth] day of [September] refused to accept the resignation of Mr. Laurens and had insisted on his executing the office of a Minister Plenipo: and that on the [twentieth] day of [September] they had rejected a motion for suspending the said Resolution; that they had no option therefore but to fulfil the engagement entered into on the part of that Minister; that it would be in the highest degree preposterous to retain him in so dignified and confidential a service, and at the same time stigmatize him by a disavowal of his conduct and thereby disqualify him for a proper execution of the service; that it was improper to send him into negotiations with the Enemy under an impression of supposed obligations; that this reasoning was in a great degree applicable to the part which Doc^t Franklin had taken in the measure; that finally the Marquis de la Fayette, who in consequence of the liberation of Cornwallis, had undertaken an exchange of several officers of his family, would also participate

in the mortification; that it was overrating far the importance of Cornwallis, to sacrifice all these considerations to the policy or gratification of prolonging his captivity.

On the opposite side it was said, that the British Gov^t having treated Mr. L. as a Traitor not as a Prisoner of war, having refused to exchange him for Gen^l Burgoyne, and having declared by the British Gen^l at N. York that he had been freely discharged, neither Mr. L. nor Congress could be bound either in honor or justice to render an equivalent; and that policy absolutely required that so barbarous an instrum^t of war, and so odious an object to the people of the U. S. should be kept as long as possible in the chains of captivity; that as the latest advices rendered it probable that Mr. L. was on his return to America, the commission for peace would not be affected by any mark of disapprobation which might fall on his conduct; that no injury could accrue to Doc^t Franklin, because he had guarded his act by an express reservation for the confirmation or disallowance of Congress; that the case was the same with the Marquis de la Fayette; that the declaration agst partial exchanges until a Cartel on national principles s^d be established w^d not admit even an exchange antecede^t thereto.

These considerations were no doubt with some the sole motives to their respective votes. There were others however who at least blended with them, on one side, a personal attachment to Mr. L., and on the other, a dislike to his character, and a jealousy excited by his supposed predilection for G. B. by his intimacy with some of the new Ministry, by his frequent passing to & from G. B. by the eulogiums pronounced on him by Mr Burke in the House of Commons, and by his memorial whilst in the Tower, to the Parliam^t. The last consideration was the chief ground on which the motion had been made for suspending the Resolution which requested his continuance in the Commission for peace.

In this stage of the business a motion was made by Mr. Duane 2^d by Mr. Rutledge to postpone the consideration of it; which being lost, a motion was made by Mr. Williamson to substitute a Resolution declaring, that as the B. Gov^t had treated Mr. L. with so unwarrantable a rigor & even as a Traitor, and Cornwallis had rendered himself so execrable by his barbarities, Congress could not ratify his exchange—An adjournment was called for in order to prevent a vote with so thin & divided a house.

No Congress till

MONDAY, NOV^R 25.

A letter from the L^t Gov^r of R. I. was read containing evidence that some of the leaders in Verm^t, and particularly Luke Nolton who had been deputed in the year 1780 to Congress as agent for that party opposed to its independence but who had since changed sides had been intriguing with the enemy in N. Y. The letter was committed. See No^r 27.

The consideration of the motion for ratifying the discharge of Cornwallis was resumed. Mr. Williamson renewed his motion which failed. Mr. McKean suggested the expedient of ratifying the discharge, on condition that a General cartel should be acceded to. This was relished at first by several members, but a development of its inefficacy and inconsistency with national dignity stifled it.

A motion was made by Mr. Rutledge, 2^ded by Mr. Ramsay, that the discharge should be ratified in case Mr. L. should undertake the office of commissioner for peace. This proposition was generally considered as of a very extraordinary nature, and after a brief discussion withdrawn.

In the course of these several propositions most of the arguments stated on friday last were repeated. Col: Hamilton who warmly & cogently espoused the ratification, as an additional argument mentioned, that some intimations had been given by Colonel Laurens of the army with the privity of Gen^l Washington, to Cornwallis previous to his capitulation, that he might be exchanged for his father, then in the Tower.

The Rep^t of the Committee on Mr. M^s motion on the 21 inst: relative to the Sec^y of F. Affairs, passed without opposition.

TUESDAY, NOV^R 26.

No Congress but a Grand Committee composed of a member from each State.

The States of N. H. & Mass^{ts} having redeemed more than their quotas of the Emissions prior to the 18th of March 1780, had called on Congress to be credited for the surplus, on which the Superintend^t of Finance reported that they ought to be credited at the rate of 1 Dollar specie for 40 of the s^d Emission, according to the Act of March aforesaid. This report being judged by Congress unjust as the money had been called in by those States at a greater depreciation, was disagreed to. Whereupon a motion was made by

Mr. Osgood, that the States who had redeemed a surplus should be credited for the same according to its current value at the time of [redemption.]

This motion with a letter afterwards rec^d from the State of Mass: on the same subject, were referred to the Grand Committee in question.

The Committee were unanimous that justice required an allowance to the States who s^d sink a surplus, to be apportioned on the different States. The different expedients suggested were

1. That Congress s^d renew their call on the States to execute the Acts of the 18th of M., 1780 and leave it to the States to level the money by negotiations among themselves. This was Mr. Hamilton's idea. The objections against it were that either nothing w^d be done in the case or the deficient States w^d be at the mercy of the hoarding States; altho the former were perhaps prevented from doing their part by invasions; & the prosperity of the latter enabled them to absorb an undue proportion.

By Mr. Madison it was proposed that Congress should declare that whenever it s^d appear that the whole of the bills emitted prior to the 18th of M., 1780 shall have been collected into the treasuries of the several States, Congress w^d proceed to give such credit for any surplus above the quotas assigned as equity might require, and debit the deficient States accordingly. In favor of this expedient it was supposed that it would give a general encouragement to the States to draw the money outstanding among individuals into the public treasuries, and render a future equitable arrangem^t by Congress easy. The objections were that it gave no satisfaction immediately to the complaining States, & would prolong the internal embarrassments which have hindered the States from a due compliance with the requisitions of Congress.

It was lastly proposed by Mr. Fitzsimmons that the Commissioners appointed to traverse the U. S., for the purpose of settling accounts should be empowered to take up all the outstanding old money and issue certificates in place of it, in specie value according to a rule to be given them by Congress the amount of the certificates to be apportioned on the States as part of the public debt, the same rule to determine the credit for redemptions by the States. This proposition was on the whole generally thought by the Committee least objectionable and was referred to a subcommittee composed of Mr. Rutledge, Mr. Fitzsimmons & Mr Hamilton to be matured & laid before the G^d Com^e. One consideration suggested

by Mr. Hamilton in its favor was that it would multiply the advocates for federal funds for discharging the public debts. and tend to cement the Union.

WEDNESDAY, NOV^R 27TH.

The report of the Committee on the letter from the L^t Gov^r of R. Island (see Nov^r 25) was made & taken into consideration.

It was moved by Mr. McKean to insert in the first clause on the Journal, after directing the apprehension by Gen^l Washington, "in order that the s^d persons may be brought to trial." The reason urged for the motion was that it might appear that the interposition was not meant to supersede civil process farther than the necessity of the case required. Agst the motion it was urged, that it would lead to discussions extremely perplexing & dilatory & that it would be more proper after the apprehension s^d have taken place.—The motion was lost, 6 States only being for it.

With respect to the main question it was agreed on all sides that it was indispensable to the safety of the U. S. that a traitorous intercourse between the inhabitants of Vermont & the Enemy should be suppressed. There were however two modes proposed for the purpose, viz: the direct & immediate interposition of the military force according to the Report, and, 2^d^y A reference in the first instance to the acting Authority in Vermont, to be followed in case of refusal or neglect of Justice on the offenders, by an exertion of compulsive measures against the whole body.

In favor of the 1st mode it was s^d, that it would be the only effectual one & the only one consistent with the part Congress had observed with regard to Vermont; since a reference to the Authority of Vermont, which had itself been suspected & accused would certainly be followed at the best by a mere mock trial; and would moreover be a stronger recognition of its independence than Congress had made or meant to make.

In favor of the 2^d mode it was alledged, that the body of the people in Vermont were well attached to the Revolution, that a sudden march of military force into the Country might alarm them, that if their Rulers abetted the Traitors, it w^d disgrace them in the eyes of their own people, and that Congress would be justified in that event to "split Vermont up among the other States." This expression, as well as the arguments on this side in general came from Mr. Howell, of R. I., whose object was to render the proceedings of Congress as favorable as possible to the independence of Vermont.

In order to compromise the matter Mr. Arnold moved that the Commander in Chief s^d be directed to make a previous communication of his intentions & the evidence on which they were founded to the persons exercising authority within the district in question.

It was suggested by Mr. Madison, as a better expedient that he s^d be authorized to make the communication if he should deem it conducive to the more certain apprehension of the suspected persons.

The Delegates from N. Y. said they would agree that after the apprehension should have been effected, the Commander might give notice thereof to the Persons exercising authority in Vermont.

It was finally compromised as it stands on the Journal.

In the course of the Debate Mr. Clark informed Congress, that the Delegates of N. Jersey could not vote for any act which might oppose force to the Authority of Vermont, the Legislature of that State having so construed the Resolutions of the 7 & 20th of Aug: as to be incompatible therewith & accordingly instructed their Delegates.

The communication directed to the States on this occasion thro' the Commander in Chief was objected to by several members as an improper innovation. The object of it was to prevent the risk of discovery, if sent before the plans which might be taken by Gen^l Washington were sufficiently advanced, of which he was the proper Judge.

THURSDAY, NOV^R 23TH

No Congress.

Mr. Livingston, Sec^r of F. Affairs called upon me & mentioned his intention to resign in a short time his office; observing that as he ultimately was decided to prefer his place of Chancellor in N. York to the other, and the two had become incompatible by the increase of Business in the former, he thought it expedient not to return to Phil^a, after a visit to N. Y. which was required by this increase. In the course of conversation he took notice that the expence of his appoint^t under Congress had exceeded his salary about 3000 Doll^{rs} per Annum. He asked me whether it was probable Mr. Jefferson would accept the vacancy, or whether he would accept Mr. Jay's place in Spain, and leave the vacancy to the latter. I told him I thought Mr. J. w^d not accept it himself & doubted whether he would concur in the latter arrangement, as well as whether Congress would be willing to part with Mr. Jay's services in the Negotiations of peace; but promised to sound Mr. J. on these points by the first opportunity.

No Congress untill

MONDAY, DEC^r 2^d

The Sec^r of foreign Affairs resigned his office, assigning as a reason the increase of business in his office of Chancellor of N. Y., whereby it was become impossible for him to execute the duties of both; informing Congress at the same time as a rule for providing for his successor, that his expences exceeded his salary upwards of 3000 Doll^rs per annum. The letter of resignation was committed to Mr. McKean, Mr. Osgood, & ——.

TUESDAY DEC^r 3.

After a verbal report of the Committee above mentioned, who acquainted Congress that in a conference with Mr. Livingston he professed a willingness to remain in office till the 1st of Jan^r, to give time for the choice of a Successor, Mr. McKean proposed the Resolution which stands on the Secret Journals; several alterations having been made however in the course of its consideration. With respect to the Preamble particularly, a change took place. As it was first moved it recited as the ground of the resignation the incompatibility of the office of foreign Affairs with the Chancellorship of N. Y. To this recital it was objected by Mr. Madison, that such a publication of preference of the office of Chancellor of a particular State to the office of foreign Affairs under the U. S., tended to degrade the latter. Whereupon the Preamble on the Journal was substituted. In the course of this business the expediency of augmenting the salary was suggested, but not much supported. Mr. Howel & Mr. Clark opposed it strenuously.

The Report of the Committee on the case of Vermont mentioned on Thursday the 14 of Nov^r was called for by Mr. McKean, & postponed on his motion to make way for a set of Resolutions declaring that as Vermont in contempt of the authority of Congress & their Recommendations of —— 1779, exercised jurisdiction over sundry persons professing allegiance to the State of N. Y., banishing them and stripping them of their possessions, the former be required to make restitution &c. and that in case of refusal or neglect Congress will enforce the same, &c. A motion was made by Mr. Clark 2nd by Mr. Howel to strike out the latter clause; in favor of which it was said that such a menace ought to be suspended until Vermont should refuse to comply with the Requisition, especially said Mr. Howel as the present proceeding being at the instance of Phelps & other exiles, was an ex parte one.

Against the motion for expunging the clause, it was observed that a requisition on Vermont without such a menace w^d have no effect, that if Congress interposed they ought to do it with a decisive tone; that as it only enforced restitution in cases where spoliations had been committed and therefore was conditional, the circumstance of its being ex parte was of no weight, especially as Congress c^d not call on Verm^t to appear as a party after her repeated protestations agst appearing.

On this occasion, Mr. Carroll informed Congress that he had entirely changed his opinion with regard to the policy requisite with regard to Verm^t being thoroughly persuaded that its leaders were perfidious men & that the interest of the U. S. required their pretensions to be discountenanced; that in this opinion he was not a little confirmed by a late conversation with Gen^l Whipple of N. Hampshire at Trenton in which this Gentleman assured him, that the Governing party in Vermont were perfidiously devoted to the British interests & that he had reason to believe that a British Commission for a Gov^r of that district had come over & was ready to be produced at a convenient season. Some of the members having gone out of Congress & it being uncertain whether there would be more than six States for the clause, an adjournment was moved for & voted.

The proceedings on this subject evinced still more the conciliating effect of the territorial cession of N. York, on several States & the effect of the scheme of an ultra-montane State within Penns^a, on the latter State. The only States in Congress which stood by Vermont were Rhode Island, which is supposed to be interested in lands in Verm^t, and N. Jersey whose Delegates were under instructions on the subject.

WEDNESDAY DEC^r 4.

After the passing of the Resolution concerning Cap: P. Jones, a motion was made by Mr. Madison to reconsider the same, that it might be referred to the Agent of Marine to take order, as a better mode of answering the same purpose; since it did not become the sovereign body to give public sanction to a recommendation of Capt: Jones to the Commander of the French Squadron, especially as there was no written evidence that the latter had signified a disposition to concur in the project of Capt: Jones. The motion was lost; a few States only being in favor of it.

The reason assigned by those who voted against the promotion of Col:^s to Brigad^s according to districts was that such a division of the U. S. tends to foster local ideas, and might lead to a dismemberment.

The Delegates from Penn^a reminded Congress that no answer had been given to the memorials (see Nov^r 20) from that State that the Legislature were proceeding in the measure intimated in the said memorials and that they meant to finish it & adjourn this evening. The reasons mentioned by the Delegates as prevailing with the Legislature were 1st, the delay of Congress to give an answer which was deemed disrespectful 2^d the little chance of any funds being provided by Congress for their internal debts; 3^d^{ly}, the assurance (given by one of their members Mr. Jos Montgomery, mentioned privately not on the floor) that no impediment to the support of the war c^d arise from it, since Congress had provided means for that purpose in Europe.

A Committee consisting of Mr. Rutledge Mr. Madison & Mr. Hamilton was appointed to confer immediately with a Committee from the Legislature on the subject of the Memorials & were instructed to make such communications relative to our affairs abroad as would correct misinformations. The committee which met them on the part of the Legislature, were Mr. Jos: Montgomery, Mr. Hill & Mr. Jacob Rush.

The Committee of Congress in the conference observed that the delay of an answer had proceeded in part from the nature of so large an assembly of which the Committee of the Legislature c^d not be insensible, but principally from the difficulty of giving a satisfactory one until Rhode Island s^d accede to the Impost of 5 Per C^t of which they had been in constant expectation; that with respect to the prospect from Congress for the public Creditors Congress had required of the States interest for the ensuing year, had accepted the territorial Cession of N. Y. and meant still to pursue the scheme of the impost; that as to their affairs in Europe the loan of 6 Millions of livres only last year had been procured from France by Dr. Franklyn, in place of 12 asked by him, the whole of which had been applied; that the loan of 5.000.000 Guilders opened by Mr. Adams had advanced to about 1½ Million only and there seemed little progress to have been made of late; that the application for 4 Million as part of the estimate for the ensuing year was not founded on any previous information in its favor but against every intimation on the subject, & was dictated entirely by our necessities; so that if even no part of the requisitions from the States s^d be denied, or diverted, the support of the war the primary object, might be but deficiently provided for. That if this example which violated the right of appropriation delegated to Congress by the federal Articles, should be set by P^a, it

would be both followed by other States & extended to other instances; that in consequence, our system of administration, and even our bond of Union w^d be dissolved; that the enemy would take courage from such a prospect and the war be prolonged if not the object of it endangered; that our national credit would fail with other powers, & the loans from abroad which had been our chief resource fail with it. That an assumption by individual States of the prerogative of paying to their own Citizens the debts of the U. S. out of the money required by the latter was not only a breach of the federal system but of the faith pledged to the public Creditors; since payment was mutually guaranteed to each & all of the Creditors by each & all of the States; and that lastly it was unjust with respect to the States themselves on whom the burden would fall not in proportion to their respective abilities, but to the debts due to their respective Citizens; and that at least it deserved the consideration of P^a whether she would not be loser by such an arrangement.

On the side of the other Committee it was answered that the measure c^d not violate the confederation, because the requisition had not been founded on a valuation of land; that it would not be the first example, N. H. & N. Y. hav^e appropriated money raised under requisitions of Congress; that if the other States did their duty in complying with the demands of Congress no inconveniency would arise from it, that the discontents of the Creditors w^d prevent the payment of taxes; Mr. Hill finally asking whether it had been considered in Congress how far delinquent States c^d be eventually coerced to do justice to those who performed their part? To all which it was replied that a valuation of land had been manifestly impossible during the war—that the apportionments made had been acquiesced in by P^a, and therefore the appropriation could not be objected to; that altho other States might have set previous examples, these had never come before Congress, & it w^d be more honorable for P^a to counteract than abet them especially as the example from her weight in the Union & the residence of Congress w^d be so powerful, that if other States did their duty the measure w^d be superfluous; that the discontents of the Creditors might always be answered by the equal justice & more pressing necessity which pleaded in favor of the army, who had lent their blood & services to their Country, and on whom its defence still rested; that Congress unwilling to presume a refusal in any of the States to do justice, c^d not anticipate it by a consideration of the steps w^{ch} such refusal might require, & that ruin

must ensue if the States suffered their policy to be swayed by such distrusters. The Committee appeared to be considerably impressed with these remarks, & the Legislature suspended their plan.

THURSDAY, DEC^R 5TH 1782

Mr. Lowel & Mr. Reed were elected Judges of the Court of Appeals. Mr. P. Smith, of N. Jersey had the vote of that State; and Mr. Merchant, of Rhode Island the vote of that State.

The Resolutions respecting Vermont moved by Mr. McKean on the [twenty-seventh] day of [November,] were taken into Consideration. They were seconded by Mr. Hamilton, as entered on the Journal of this day. Previous to the question on the coercive clause, Mr. Madison observed that as the preceding clause was involved in it, & the federal articles did not delegate to Congress the authority about to be enforced, it would be proper in the first place to amend the recital in the preceding clause, by inserting the ground on which the Authority of Congress had been interposed. Some who voted against this motion in this stage having done so from a doubt as to the point of order, it was revived in a subsequent stage when that objection did not lie. The objections to the motion itself were urged chiefly by the Delegates from Rhode Island, and with a view in this as in all other instances, to perplex & protract the business. The objections were 1st that the proposed insertion was not warranted by the Act of N. Hampshire which submitted to the judgment of Congress *merely* the question of jurisdiction. 2^{dly} That the Resolutions of Aug: 1781, concerning Vermont, hav^e been acceded to by Vermont, annulled all antecedent acts founded on the doubtfulness of its claim to independence. In answer to the 1st. obj^s the Act of N. H. was read w^{ch} in the utmost latitude adopted the Resolu^s of Congress which extended expressly to the preservation of peace & order & prevention of acts of confiscation by one party agst another. To the 2^d obj^s it was answered 1st that the s^d Reso^{ns} of Aug: being conditional not absolute, the accession of Vermont c^d not render them definitive; but 2^{dly} that prior to this accession, Vermont hav^e in due form rejected the Resol^{ns}, and notified the rejection to Congress, the accession could be of no avail unless subsequently admitted by Congress, 3^{dly}, that this doctrine had been maintained by Vermont itself w^{ch} had *declared* that inasmuch as the Resol^{ns} of Aug: did not correspond wth their overtures previously made to Congress these had ceased to be obligatory; w^{ch} act it was to be observed was merely *declaratory*, not creative, of the annulment.

The original motion of Mr. McKean & Mr. Hamilton was agreed to seven States voting for it; R. I. & N. J. in the negative.

FRIDAY 6 DEC^r

An ordinance, extending the privilege of Franking letters to the Heads of all the Departments was reported & taken up. Various ideas were thrown out on the subject at large; some contending for the extension proposed, some for a partial adoption of it, some for a total abolition of the privilege as well in members of Congress as in others. Some for a limitation of the privilege to a definite number or weight of letters. Those who contended for a total abolition, represented the privilege as productive of abuses, as reducing the profits so low as to prevent the extension of the establishment throughout the U. S. and as throwing the whole burden of the establishment on the mercantile intercourse.—On the other side it was contended that in case of an abolition The Delegates, or their Constituents, would be taxed just in proportion to their distance from the seat of Congress; which was neither just nor politic, considering the many other disadvantages which were inseparable from that distance; that as the correspondence of the Delegates was the principal channel through which a general knowledge of public affairs, was diffused, any abridgment of it would so far confine this advantage to the States within the neighbourhood of Congress; & that as the correspondence at present however voluminous did not exclude from the mail any private letters which w^d be subject to postage, and if postage was extended to letters now franked the n^o & size of them would be essentially reduced, the revenue was not affected in the manner represented. The Ordinance was disagreed to & the subject re-committed, wth the instruction to the Committee giving them ample latitude for such Report as they should think fit.

A Boston Newspaper containing under the Providence Head, an extract of a letter purporting to be written by a Gentleman in Philad^a and misrepresenting the state of our loans, as well as betraying the secret proposal of the Swedish Court to enter into a Treaty with the U. S; with the view of disproving to the people of R. Island the necessity of the Impost of 5 P C^t; had been handed about for several days. From the style and other circumstances, it carried strongly the appearance of being written by a Member of Congress. The unanimous suspicions were fixed on Mr. Howel. The mischievous tendency of such publications & the necessity of the interposition of Congress were also general subjects of conversation. It was imagined too that

a detection of the person suspected would destroy in his State that influence which he exerted in misleading its counsels with respect to the Impost. These circumstances led Mr. Williamson to move the proposition on this subject.

It was opposed by no one.

Mr. Clark supposing it to be levelled in part at him, rose & informed Congress, that not considering the article relative to Sweden as secret in its nature, and considering himself at liberty to make any communications to his Constituents, he had disclosed it to the Assembly of N. Jersey. He was told that the motion was not aimed at him, but the doctrine advanced by him was utterly inadmissible. Mr. Rutledge observed that after this frankness on the part of Mr. Clarke as well as from the respect due from every member to Congress & to himself, it might be concluded that if no member present should own the letter in question, no member present was the author of it. Mr. Howell was visibly perturbed but remained silent.

The conference with the Committee of the Legislature of Penn^a, with subsequent information had rendered it very evident that unless some effectual measures were taken against separate appropriations & in favor of the public Creditors the Legislature of that State, at its next meeting, would resume the plan which they had suspended. Mr. Rutledge in pursuance of this conviction moved that the Superintendent of Finance be instructed to represent to the several States the mischiefs which such appropriations would produce. It was observed with respect to this motion that however proper it might be as one expedient, it was of itself inadequate; that nothing but a permanent fund for discharging the debts of the public would divert the States from making provision for their own Citizens; that a renewal of the call on R. Island for the impost ought to accompany the motion; that such a combination of these plans would mutually give efficacy to them, since R. Island would be solicitous to prevent separate appropriations, & the other States would be soothed with the hope of the Impost. These observations gave rise to the Motion of Mr. Hamilton, which stands on the Journal. Agst Mr. Rutledge's part of the motion no objection was made. But the sending a deputation to Rhode Island was a subject of considerable debate, in which the necessity of the impost, in order to prevent separate appropriations by the States, to do equal justice to the Public creditors, to maintain our national character & credit abroad, to obtain the loans essential for supplying the deficiencies of revenue, to prevent the encouragement which a failure of the scheme would give the Enemy to persevere

in the war, was fully set forth. The objections, except those w^{ch} came agst the scheme itself from the Delegates of R. Island, were drawn from the unreasonableness of the proposition. Congress ought it was said to wait for an official answer to their demand of an explicit answer from R. I. before they could with propriety repeat their exhortations. To which it was replied that altho' this objection might have some weight, Yet the urgency of our situation, and the chance of giving a favorable turn to the negotiations on foot for peace rendered it of little comparative signification. The objections were finally retracted, and both the propositions agreed to. The Deputation elected were Mr. Osgood, Mr. Mifflin & Mr. Nash taken from different parts of the U. S., & each from States which had fully adopted the Impost, and would be represented in Congress wthout them; except Mr. Osgood whose State, he being alone, was not represented without him.

SATURDAY, DEC^r 7.

No Congress.

The Grand Committee met again on the business of the old paper emissions, and agreed to the plan reported by the sub-committee in pursuance of Mr. Fitzsimmons' motion, v^z: that the outstanding bills should be taken up & certificates issued in place thereof at the rate of 1 real Dollar for ——— nominal ds., and that the surpluses redeemed by particular States sho^d be credited to them at the same rate. Mr. Carrol alone dissented to the plan, alledging that a law of Maryland was adverse to it which he considered as equipollent to an instruction. For filling up the blank, several rates were proposed. 1st, 1 for 40 on which the votes were *no* except Mr. Howell. 2^d, 1 for 75 *no* Mr. White & Mr. Howell, *ay*. 3^d, 1 for 100 *no* Mr. Hamilton & Mr. Fitzsimmons *ay*. 4th, 1 for 150 *no* Mr. Fitzsimmons *ay*. The reasons urged in favor of 1 for 40 were—first an adherence to public faith, secondly that the depreciation of the certificates would reduce the rate sufficiently low, they being now negotiated at the rate of three or four for one. The reason for 1 for 75 was that the bills passed at that rate when they were called in, in the Eastern States; for 1 for 100—that as popular ideas were opposed to the stipulated rate, and as adopting the current rate might hurt the credit of other securities which derived their value from an opinion that they would be strictly redeemed, it was best to take an arbitrary rate, leaning to the side of liberality,—for 1 for 150 that this was the medium depreciation when

the circulation ceased. The opposition to these several rates came from the Southern Delegates, in some of whose States none, in others but little had been redeemed, & in all of which the depreciation had been much greater. On this side it was observed by Mr. Madison, that the States which had redeemed a surplus, or even their quotas, had not done it within the period fixed by Congress but in the last stages of depreciation, & in a great degree, even after the money had ceased to circulate; that since the supposed Cessation the money had generally changed hands at a value far below any rate that had been named; that the principle established by the plan of the 18th of March 1780, with respect to the money in question was, that the Holder of it s^d receive the value at which it was current, & at which it was presumed he had received it; that a different rule adopted with regard to the same money in different stages of its downfall w^d give general dissatisfaction. The Committee adjourned without coming to any decision.

MONDAY 9th DEC^r

No Congress.

TUESDAY, 10 DEC^r

A motion was made by Mr. Ramsay directing the Sec^r at War who was ab^t to visit his family in Massachusetts, to take Vermont in his way & deliver the Resolutions passed a few days since to Mr. Chittenden. For the motion it was urged that it would ensure the delivery, would have a conciliating effect and would be the means of obtaining true and certain knowledge of the disposition & views of that people. On the opposite side it was exclaimed agst as a degradation of so high a Serv^t of the U. S., as exposing him to the temerity of leaders who were on good ground suspected of being hostile to the U. S., and as treating their pretensions to Sovereignty with greater complaisance than was consistent with the eventual resolutions of Congress. The motion was rejected.

A motion was made by Mr. Gilman that a day be assigned for determining finally the affair of Vermont. The opposition made to the motion itself by Rhode Island & the disagreement as to the day among the friends of the motion prevented a decision & it was suffered to lie over.

For the letter of the Superintend^t of Finance to T[homas] B[arclay] Com^r for settling accounts in Europe, agreed to by Cong^r, see Secret Journal of this date.

WEDNESDAY, 11th DEC^r

The Sec^r at War was authorized to permit the British prisoners to hire themselves out on condition of a bond from the Hirers for their return. The measure was not opposed, but was acquiesced in by some, only as conformable to antecedent principles established by Congress on this subject. Col Hamilton in particular gave this explanation.

Mr. Wilson made a motion referring the transmission of the Resolutions concerning Vermont to the Sec^r at War in such words as left him an option of being the Bearer, without the avowed sanction of Congress. The votes of Virg^a & N. York negatived it. The Presid^t informed Congress that he should send the Resolutions to the Commander in Chief to be forwarded.

THURSDAY, DEC^r 12.

The Report made by Mr. Williamson, Mr. Carrol, and Mr. Madison touching the publication in the Boston paper, supposed to be written by Mr. Howel, passed with the concurrence of R. Island; Mr. Howel hesitating & finally beckoning to Mr. Collins his colleague, who answered for the State in the affirmative. As the Report stood the Executive of Massachusetts, as well as of Rho. Island was to be written to, the Gazette being printed at Boston. On the motion of Mr. Osgood who had seen the original publication in the Providence Gazette and apprehended a constructive imputation on the Mass Delegates by such as would be ignorant of the circumstances, the Executive of Mass^s was expunged.

FRIDAY, DEC^r. 13th

Mr. Howel verbally acknowledged himself to be the writer of the letter from which the extract was published in the Providence Gazette. At his instance the subject was postponed until Monday.

SATURDAY, DEC^r. 14th

No Congress.

MONDAY, DECEMBER 16th

The answer to the objections of Rho: Island, as to the Impost, penned by Mr. Howel, passed without opposition, 3 States being present, of which Rho: Is^d was one, a few trivial alterations only being made in the course of discussion.

Mr. Howell, contrary to expectation, was entirely silent as to his affair.

TUESDAY, DEC^r 17th

Mr. Carrol in order to bring on the affair of Mr. Howel moved that the Sec^r of Foreign Affairs be instructed not to write to the Gov^t of Rhode Island on the subject. The state in wth such a vote would leave the business unless the reason of it was expressed, being not adverted to by some, and others being unwilling to move in the case, this motion was incautiously suffered to pass. The effect of it however was soon observed, and a motion in consequence made by Mr. Hamilton, to subjoin the words, "Mr. Howel having in his place confessed himself to be the Author of the publication." Mr. Ramsay thinking such a stigma on Mr. Howel unnecessary, & tending to place him in the light of a persecuted man whereby his opposition to the Impost might have more weight in his State, proposed to substitute as the reason, "Congress hav^e rec^d the information desired on that subject." The yeas & nays being called for by Mr. Hamilton, Mr. Howell grew very uneasy at the prospect of his name being thereby brought on the Journals; and requested that the subject might be suspended until the day following. This was agreed to & took place on condition that the neg[ative] counter direction to the Sec^r of F. A. should be reconsidered & lie over also.

WEDNESDAY, DEC^r 18th

This day was chiefly spent on the case of Mr. Howel, whose behaviour was extremely offensive, and led to a determined opposition to him, those who were most inclined to spare his reputation. If the affair could have been closed without an insertion of his name on the Journal, he seemed willing to withdraw his protest; but the impropriety which appeared to some, & particularly to Mr. Hamilton, in suppressing the name of the Author of a piece wth Congress had so emphatically reprobated, when the author was found to be a member of Congress, prevented a relaxation as to the yeas & nays. Mr. Howell, therefore as his name was necessarily to appear on the Journal, adhered to the motion which inserted his protest thereon. The indecency of this paper, and the pertinacity of Mr. Howell in adhering to his assertions with respect to the non-failure of any application for foreign loans, excited great & (excepting his Colleagues or rather Mr. Arnold) universal indignation and astonishment in Congress; and he was repeatedly premonished of the certain ruin in wth he w^d thereby involve his character & consequence; and of the necessity wth Congress w^d be laid under of vindicating themselves by some act which would expose and condemn him to all the world.

THURSDAY, DEC^R 19TH

See Journals.

FRIDAY, DEC^R 20TH

A motion was made by Mr. Hamilton for revising the requisitions of the preceding and present years, in order to reduce them more within the faculties of the States. In support of the motion it was urged that the exorbitancy of the demands produced a despair of fulfilling them which benumbed the efforts for that purpose. On the other side it was alledged that a relaxation of the demand would be followed by a relaxation of the efforts; that unless other resources were substituted, either the States would be deluded by such a measure into false expectations, or, in case the truth s^d be disclosed to prevent that effect, that the Enemy w^d be encouraged to persevere in the war agst us. The motion meeting with little patronage was withdrawn.

The report of the committee on the motion of Mr. Hamilton proposed that the *Sec^y of Congress* should transmit to the Executive of Rhode Island the several acts of Congress with a state of foreign loans. The object of the committee was that in case Rho: Island should abet or not resent the misconduct of their Representative, as w^d most likely be the event, Congress might commit themselves as little as possible in the mode of referring it to that State. When the Report came under consideration it was observed, that the *Presid^t* had always transmitted acts of Congress to the Executives of the States, and that such a change on the present occasion might afford a pretext if not excite a disposition in Rho: Island not to vindicate the honor of Congress. The matter was compromised by substituting the *Sec^y of F. A.* who *ex officio*, corresponds with the Governors &c. within whose department the facts to be transmitted as to foreign loans, lay. No motion or vote opposed the report as it passed.

SATURDAY, 21 DEC^R

The Committee to confer wth Mr. Livingston was appointed the preceding day in consequence of the unwillingness of several States to elect either Gen^l Schuyler, Mr. Clymer, or Mr. Read the Gentlemen previously put into nomination, and of a hint that Mr. L. might be prevailed on to serve till the spring. The Committee found him in this disposition and their report was agreed to without opposition. See the Journal.

MONDAY, 23 DEC^r

The motion to strike out the words "accruing to the use of the U. S.," was grounded on a denial of the principle that a capture & possession by the enemy of moveable property extinguished or effected the title of the original owners. On the other side this principle was asserted as laid down by the most approved writers, and conformable to the practice of all nations; to which was added that if a contrary doctrine were established by Congress, innumerable claims would be brought forward by those whose property had, on recapture been applied to the public use. See Journals.

Letters were this day rec^d from Mr. Franklin, Mr. Jay & the Marquis de la Fayette. They were dated the 14th of Oc^r. That from the first inclosed a copy of the 2^d Comission to Mr. Oswald with sundry prelim^r articles, and distrusted the British Court. That from the 2^d expressed great jealousy of the French Gov^t, & referred to an intercepted letter from Mr. Marbois, opposing the claim of the U. S. to the Fisheries. This despatch produced much indignation agst the author of the intercepted letter, and visible emotions in some agst France. It was remarked here that our Ministers took no notice of the distinct com^{ms} to Fitzherbert & Oswald; that altho' on a supposed intimacy and joined in the same com^{ms}, they the Ministers, wrote *separately* & breathed opposite sentiments as to the views of France. Mr. Livingston told me that the letter of the C^t de Vergennes, as read to him by the Chev^r Luzerne, very delicately mentioned & complained that the American Ministers did not in the negotiations with the British Ministers, maintain the due communication with those of France. Mr. Livingston inferred on the whole that France was sincerely anxious for peace.

The Presid^t acquainted Congress that C^t Rochambeau had communicated the intended embarkation of the French troops for the W. Indies, with an assurance from the King of France, that in case the war s^d be renewed agst U. S. they should immediately be sent back.

MONDAY 24 DEC^r

The letter from Mr. Jay, inclosing copy of the intercepted letter from Marbois, was laid before Congress. The tenor of it with the comments of Mr. Jay, affected deeply the sentiments of Congress with regard to France. The policy in particular manifested by France, of keeping us tractable by leaving the British in possession of posts in this country awakened strong jealousies, corroborated the charges

on that subject, and with concomitant circumstances may engender the opposite extreme of the gratitude & cordiality now felt towards France; as the closest friends on a rupture are apt to become the bitterest foes. Much will depend however on the course pursued by Britain. The liberal one Oswald seems to be pursuing will much promote an alienation of temper in America from France. It is not improbable that the intercepted letter from Marbois came thro' Oswald's hands. If G. B., therefore, yields the fisheries & the back territory, America will feel the obligation to her not to France, who appears to be illiberal as to the 1st & favorable to Spain as to the 2^d object; and consequently has forfeited the confidence of the States interested in either of them. Candor will suggest however that the situation of France is and has been extremely perplexing. The object of her blood & money was not only the independence, but the commerce and gratitude of America; the commerce to render independence the more useful, the gratitude to render that commerce the more permanent. It was necessary therefore she supposed that America should be exposed to the cruelties of her Enemies, and be made sensible of her own weakness in order to be grateful to the hand which relieved her. This policy if discovered tended on the other hand to spoil the whole. Experience shews that her truest policy would have been to relieve America by the most direct & generous means, & to have mingled with them no artifice whatever. With respect to Spain also the situation of France has been and is peculiarly delicate. The claims & views of Spain & America interfere. The former attempts of Britain to seduce Spain to a separate peace, & the ties of France with the latter whom she had drawn into the war, required her to favor Spain, at least to a certain degree, at the expence of America. Of this G. B. is taking advantage. If France adheres to Spain G. B. espouses the views of America, & endeavours to draw her off from France. If France should adhere to America in her claims Britain might espouse those of Spain, & produce a breach between her & France; and in either case Britain w^d divide her enemies. If France acts wisely, she will in this dilemma prefer the friendship of America to that of Spain. If America acts wisely she will see that she is with respect to her great interests, more in danger of being seduced by Britain than sacrificed by France.

The deputation to R. I. had set out on the 22^d & proceeded $\frac{1}{2}$ day's journey. Mr. Nash casually mentioned a private letter from Mr. Pendleton to Mr. Madison informing that the Legislature of Virg^a had in consequence of the final refusal of R. I. repealed her law for

the impost. As this circumstance if true destroyed in the opinion of the deputies the chief arg^t to be used by them, viz: the unanimity of the other States, they determined to return & wait for the Southern post, to know the truth of it. The post failing to arrive on the 23^d, the usual day the deputies on this day came into Congress & stated the case. Mr. Madison read to Congress the paragraph in the letter from Mr. Pendleton. Congress verbally resolved, that the departure of the Deputies for R. I. s^d be suspended until the further order of Congress; Mr. Madison promising to give any information he might receive by the post. The arrival of the post immediately ensued. A letter to Mr. Madison from Mr. Randolph confirmed the fact, & was communicated to Congress. The most intelligent members were deeply affected & prognosticated a failure of the Impost scheme, & the most pernicious effects to the character, the duration & the interests of the Confederacy. It was at length notwithstanding determined to persist in the attempt for permanent revenue, and a Committee was appointed to report the steps proper to be taken.

A motion was made by Mr. Rutledge to strike out the salvago for recaptures on land, on the same principle as he did the words "accruing to the use of the United States." As the latter had been retained by barely 7 States, and one of these was not present the motion of Mr. Rutledge succeeded. Some of Those who were on the other side, in consequence, voted agst the whole resolution & it failed. By compromise it passed as reported by the Committee.

The Grand Committee reported after another meeting with respect to the old money, that it should be rated at 40 for 1. The Chair decided on a question raised, that according to rule the blank s^d not have been filled by the Committee; so the rate was expunged.

From Tuesday 24 of Dec^r, the journals suffice untill

MONDAY, 30 DEC^r

A motion was made by Mr. Clarke, seconded by Mr. Rutledge, to revise the instructions relative to negotiations for peace, with a view to exempt the American Plenipotentiaries from the obligation to conform to the advice of France. This motion was the effect of impressions left by Mr. Jay's letters, & the intercepted one from Marbois. This evidence of separate views in our Ally, and the inconsistency of that instruction with our national dignity, were urged in support of the motion. In opposing the motion, many considerations were suggested, and the original expediency of submitting the commission

for peace to the Councils of France descanted upon. The reasons assigned for this expediency were that at the juncture when that measure took place the American affairs were in the most deplorable situation, the Southern States being overrun & exhausted by the enemy, & and the others more inclined to repose after their own fatigues than to exert their resources for the relief of those which were the seat of the war; that the old paper currency had failed, & with it public credit itself to such a degree that no new currency could be substituted; & that there was then no prospect of introducing specie for the purpose, our trade being in the most ruinous condition, & the intercourse with the Havana in particular unopened. In the midst of these distresses the mediation of the two Imperial Courts was announced. The general idea was that the two most respectable powers of Europe would not interpose without a serious desire of peace, and without the energy requisite to effect it. The hope of peace was therefore mingled with an apprehension that considerable concessions might be exacted from America by the Mediators, as a compensation for the essential one which Britain was to submit to. Congress on a trial found it impossible from the diversity of opinions & interests to define any other claims than those of independence & the alliance. A discretionary power therefore was to be delegated with regard to all other claims. Mr. Adams was the sole minister for peace, he was personally at variance with the French Ministry; his judgment had not the confidence of some, and his impartiality in case of an interference of claims espoused by different quarters of the U. S., the confidence of others; a motion to associate with him two colleagues, to wit, Mr. Franklin & Mr. Jay, had been disagreed to by Congress; the former of these being interested as one of the Land Companies in territorial claims which had less chance of being made good in any other way than by a repossession of the vacant country by the British Crown, the latter belonging to a State interested in such arrangements as would deprive the U. S. of the navigation of the Mississippi, & turn the western trade through N. Y.; and neither of them being connected with the So. States. The idea of having five ministers taken from the whole Union was not suggested until the measure had been adopted, and communicated to the Chev^r de Luzerne to be forwarded to France, when it was too late to revoke it. It was supposed also that Mr. Laurens then in the tower would not be out, & that Mr. Jefferson w^d not go; & that the greater n^o of Ministers, the greater the danger of discords & indiscretions. It was added that as it was expected that nothing would

be yielded by G. B. which was not extorted by the address of France in managing the Mediators, and as it was the intention of Congress that their minister should not oppose a peace recommended by them & approved by France, it was thought good policy to make the declaration to France, & by such a mark of confidence to render her friendship the more responsible for the issue. At the worst it could only be considered as a sacrifice of our pride to our interest.

These considerations still justified the original measure in the view of the members who were present & voted for it. All the new members who had not participated in the impressions which dictated it and viewed the subject only under circumstances of an opposite nature, disapproved it. In general however the latter joined with the former in opposing the motion of Mr. Clarke, arguing with them that supposing the instruction to be wrong, it was less dishonorable, than the instability that w^d be denoted by rescinding it; that if G. B. was disposed to give us what we claimed France could not prevent it; that if G. B. struggled ag^t those claims our only chance of getting them was thro' the aid of France; that to withdraw our confidence would lessen the chance & degree of this aid; that if we were in a prosperous or safe condition compared with that in which we adopted the expedient in question, this change had been effected by the friendly succors of our Ally, & that to take advantage of it to loosen the tie, would not only bring on us the reproach of ingratitude, but induce France to believe that she had no hold on our affections; but only in our necessities; that in all possible situations we s^d be more in danger of being seduced by G. B., than of being sacrificed by France; the interests of the latter in the main necessarily coinciding with ours: those of the former being diametrically opposed to them; that as to the intercepted letter, there were many reasons which indicated that it came through the hands of the Enemy to Mr. Jay, that it ought therefore to be regarded even if genuine, as communicated for insidious purposes; but that there was strong reason to suspect that it had been adulterated if not forged; and that on the worst supposition, it did not appear that the doctrines maintained or the measures recommended in it had been adopted by the French Ministry and consequently that they ought not to be held responsible for them.

Upon these considerations it was proposed by Mr. Wolcott, 2^ded by Mr. Hamilton that the motion of Mr. Clarke should be postponed, which took place without a vote.

Mr. Madison moved that the letter of Doc^t Franklin, of the 14 Oct^r, 1782, should be referred to a Committee, with a view of bringing

into consideration the preliminary article proposing that British subjects & American Citizens s^d reciprocally have in matters of commerce the privileges of natives of the other party; and giving to the American Ministers the instruction which ensued on that subject. This motion succeeded, and the committee appointed consisted of Mr. Madison Mr. Rutledge, Mr. Clarke, Mr. Hamilton & Mr. Osgood.

The contract of Gen^l Wayne was confirmed with great reluctance; being considered as improper with respect to its being made with individuals, as admitting of infinite abuses, as out of his military line, and as founded on a principle that a present commerce with G. B. was favorable to the U. S. a principle reprobated by Congress & all the States. Congress however supposed that these considerations ought to yield to the necessity of supporting the measures which a valuable officer from good motives, had taken upon himself.

TUESDAY, DEC^r 31, 1782

The report of the Committee made in consequence of Mr. Madison's motion yesterday instructing the Ministers plenipo on the article of commerce, passed unanimously as follows:

Resolved, That the Ministers Plenipo for negotiating peace be instructed in any commercial stipulations with G. B. which may be comprehended in a Treaty of peace to endeavour to obtain for the Citizens and inhabitants of the U. S. a direct commerce to all parts of the British Dominions & Possessions, in like manner as all parts of the U. S. may be opened to a direct Commerce of British subjects; or at least that such direct Commerce be extended to all parts of the British Dominions & possessions in Europe & the West Indies; and the said Ministers are informed that this stipulation will be particularly expected by Congress, in case the Citizens & subjects of each party are to be admitted to an equality in matters of commerce with natives of the other party.

STANDING COMMITTEES

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STANDING COMMITTEES

Committee of the week

7 January,	1782.	Benjamin Hawkins Jonathan Elmer Samuel Osgood
15 January,	1782.	Samuel Livermore Henry Wynkoop Noble Wimberly Jones
21 January,	1782.	Samuel John Atlee Silas Condict Arthur Middleton
28 January,	1782.	Elias Boudinot William Floyd Benjamin Hawkins
4 February,	1782.	Thomas Smith Edward Telfair Isaac Motte
11 February,	1782.	Joseph Montgomery Nicholas Eveleigh Noble Wimberly Jones
18 February,	1782.	Richard Law John Morin Scott Silas Condict
25 February,	1782.	Samuel Osgood Arthur Lee Philemon Dickinson
4 March,	1782.	Thomas Smith Samuel Wharton Silas Condict
11 March,	1782.	William Floyd Nicholas Eveleigh George Partridge
18 March,	1782.	Ezekiel Cornell Daniel Carroll Abraham Clark

25 March,	1782.	Noble Wimberly Jones Abraham Clark George Partridge
1 April,	1782.	Silas Condict William Floyd Edward Telfair
8 April,	1782.	Joseph Montgomery Jonathan Elmer Oliver Wolcott
15 April,	1782.	Theodorick Bland Samuel John Atlee Jonathan Elmer
22 April,	1782.	Arthur Middleton Oliver Wolcott Silas Condict
29 April,	1782.	Silas Condict Turbett Wright Edward Telfair
6 May,	1782.	John Rutledge William Few Samuel Wharton
14 May,	1782.	Richard Law William Floyd George Partridge
20 May,	1782.	John Lowell Turbett Wright Thomas Smith
27 May,	1782.	Noble Wimberly Jones John Morin Scott Samuel John Atlee
3 June,	1782.	Eliphalet Dyer William Few William Ellery
10 June,	1782.	Ralph Izard David Howell Thomas McKean
17 June,	1782.	John Witherspoon Henry Wynkoop Benjamin Huntington

Standing Committees

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24 June,	1782.	James Duane John Taylor Gilman Noble Wimberly Jones
1 July,	1782.	John Lewis Gervais Henry Wynkoop Silas Condict
8 July,	1782.	Jonathan Jackson Arthur Lee Edward Telfair
15 July,	1782.	Jesse Root Thomas Smith John Taylor Gilman
22 July,	1782.	Hugh Williamson Samuel Osgood George Clymer
29 July,	1782.	William Blount John Taylor Gilman Jonathan Jackson
5 August,	1782.	Samuel Osgood Samuel Wharton David Ramsay
12 August,	1782.	Samuel John Atlee Noble Wimberly Jones David Howell
19 August,	1782.	Arthur Middleton Eliphalet Dyer Thomas Smith
26 August,	1782.	John Taylor Gilman Abraham Clark Benjamin Huntington
3 September,	1782.	Ezra L'Hommedieu John Taylor Gilman Turbett Wright
9 September,	1782.	Samuel John Atlee Silas Condict William Few
16 September,	1782.	Elias Boudinot George Clymer Joseph Jones

23 September,	1782.	John Taylor Gilman William Few Ezra L'Hommedieu
30 September,	1782.	William Hemsley Thomas Smith Silas Condict
7 October,	1782.	William Blount Samuel John Atlee Benjamin Huntington
14 October,	1782.	David Ramsay Ralph Izard John Taylor Gilman
21 October,	1782.	Jonathan Arnold Hugh Williamson John Lewis Gervais
28 October,	1782.	Theodorick Bland Thomas McKean Philemon Dickinson
4 November,	1782.	Abner Nash Phillips White Samuel Wharton
12 November,	1782.	Ralph Izard Ezra L'Hommedieu William Hemsley
18 November,	1782.	Abraham Clark Thomas Fitzsimmons Richard Peters
25 November,	1782.	Thomas McKean Alexander Hamilton Joseph (?) Jones
2 December,	1782.	William Floyd Jonathan Arnold David Ramsay
9 December,	1782.	No appointment is recorded for this week.
16 December,	1782.	Abraham Clark John Collins Nathaniel Gorham
23 December,	1782.	No appointment is recorded for this week.
30 December,	1782.	Oliver Wolcott Benjamin Hawkins Silas Condict

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BIBLIOGRAPHICAL NOTES

January 3.

Hospital Department.

375. By the United States in Congress assembled, January 3, 1782.
4.° Broadside in two columns.

Report of Clark, Cornell and Motte. A copy is in the John Carter Brown Library. It measures 20.5 x 21 cms.

January 8.

Ordinance for Marine Captures.

376. An Ordinance / For Amending the Ordinance, ascertaining what Captures on Water / shall be lawful.

F°. Broadside.

A copy is in the John Carter Brown Library. It measures 34.5 x 21 cms.

January 10.

Plan of Inspector's Department.

377. By the United States, in Congress assembled, / January 10, 1782. / Plan for conducting the Inspector's Department.

F°. Broadside.

Plan reported by Cornell, Lovell and Motte, in place of that adopted September 25, 1780.

January 24.

Court Martial on Howe.

378. Proceedings / of a / General Court Martial, / Held at Philadelphia, / In the State of / Pennsylvania, / By Order of his Excellency / General Washington, / Commander in Chief / of the Army of / The United States of America, / For the Trial of / Major General Howe, / December 7, 1781. / Major General Baron Steuben, President. / Philadelphia: / Printed by Hall and Sellers, in Market-Street. / M,DCC,LXXXII. /

F°. pp. 31.

A mutilated copy is in the Library of Congress; the last seven pages are missing. The report of the proceedings acquitting General Howe was received, read in Congress and approved, January 24.

"February 19, 1782: . . . A letter of 15 from major general R. Howe was read, requesting that the proceedings of the general court martial on his trial be printed by Congress." *Journal*.

February 20.**Determination of Quotas.**

379. By the United States in Congress assembled./

Whereas it is become indispensably necessary to settle and / adjust,
and finally to determine the proportions to be borne by the / several
states of the expences of the war

F°. Broadside.

A copy is in the Library of Congress, signed by Charles Thomson. It measures
32.5 x 20 cms.

February 23.**Resolution on Exchange.**

380. By the United States in Congress assembled. / February 23,
1782.

F°. Broadside.

Refusing to exchange Lieutenant General Charles, Earl Cornwallis, "not from
any apprehensions of his influence or superior abilities; but because they look
upon him not in the light of a British general, but a barbarian." It also relates
to the parole of Henry Laurens, and the maintenance of British prisoners.

February 26.**Ordinance for Marine Captures.**

381. An Ordinance / For further amending the Ordinance, / ascer-
taining what / captures on water shall be lawful.

Narrow F°. Broadside.

A copy is in the Massachusetts Historical Society. It measures 20.6 x 12.4 cms.

March 19.**Fast-day Proclamation.**

382. Proclamation. / The Goodness of the supreme Being to all
his rational Creatures, demands their Ac- / knowledgements of
Gratitude and Love; / / Done by the United States
in Congress assembled, this nineteenth Day of March, in the Year / of
Lord One Thousand seven Hundred and eighty-two, . . . /
New-London: Printed by Timothy Green, Printer to the Governor
and Company. /

F°. Broadside.

Followed by a proclamation by Governor Trumbull, dated April 10, 1782.
A copy is in the Library of Congress. It measures 33.5 x 21.5 cms.

July 10.

Distribution of Prizes.

383. An Ordinance for the better Distribution of / Prizes in certain Cases. /

Be it ordained

12°. Broadside.

A copy is in the Library of Congress. It measures 13 x 11 cms.

July 23.

Hospital Department.

384. By the United States / in Congress assembled, July 23d, 1782. /

Resolved, / That in conducting the business of the General Hospital,

F°. Broadside of two columns.

Report of Montgomery, Clark and Ramsay. A copy is in the Library of Congress, *Washington Papers*. It measures 40.5 x 30.5 cms.

August 7.

Arrangement of the Army.

385. By the United States in Congress assembled, August 7, 1782. / Resolved, / That the secretary at war, on or before the / first day of January next, cause the non- / commissioned officers and privates

4°. Broadside of two columns.

Report of Cornell, Izard, Osgood, Bland and Duane, a committee on the "most just and practicable means of reducing the expenditures of the United States in the several departments".

A copy is in the Library of Congress. It measures 21 x 17 cms.

October 4.

Adherence to Alliance with France.

386. By the United States in Congress assembled. / October 4, 1782. /

Whereas by the articles of confederation and perpetual union, the sole and exclusive right of making peace,

Narrow F°. Broadside.

A copy is in the Massachusetts Historical Society, signed by Thomson. It measures 23 x 9 cms.

October 10.**Notice to Contractors.**

387. Office of Finance, October 10, 1782.

12°. Broadside.

Public notice to contractors for continental supplies to send in estimates for rations of 1783.

October 11.**Thanksgiving-day Proclamation.**

388. By the United States in Congress assembled. / Proclamation. / It being the indispensable duty of all Nations, not only to offer up their suppli- / cations to Almighty God, the giver of all good, for his gracious assistance / / Done in Congress, at Philadelphia, the eleventh day of October, in the year of our / Lord one thousand seven hundred and eighty-two, / Printed at Exeter. /

F°. Broadside.

Preceded by an order to observe the day, dated November 1, 1782, and signed by Governor Weare.

A copy is in the Library of Congress. It measures 34 x 21.5 cms.

October 23.**Regulations for Quartermaster General's Department.**

389. Regulations for the Quarter Master General's Department. / By the United States in Congress assembled, October 23, 1782. /

F°. Broadside in two columns.

Report by Osgood, Izard, Bland and Duane. A copy is in the Library of Congress. It measures 35 x 23 cms.

October 24.**Ordinance for Post Office.**

390. General Post-Office, October 24th, 1782. / Extract from an Ordinance passed by the United States of America in Congress Assembled, October 18, 1782, entitled / An Ordinance for Regulating the Post-Office of the United States of America / [signed] James Bryson, Assistant.

F°. Broadside.

The draft of an ordinance erecting a post office was reported to Congress July 19, by Scott, Clark and Atlee, was read a second time October 2, and was adopted October 18. A supplemental ordinance was adopted October 28.

October 29.

Quartermaster General's Department.

391. By the United States in Congress assembled, / October 29, 1782. /

F°. Broadside.

Additional regulations for rations in the Quartermaster General's Department, reported by Osgood, Izard, Bland and Duane.

A copy is in the John Carter Brown Library, on verso of the regulations of October 23.

November 18.

Receipts and Expenditures.

392. A general View of Receipts and Expenditures of Public Monies, by Authority from the Superintendent of Finance, from the Time of his entering on / the Administration of the Finances, to the 31st December, 1781. / /

[signed] Joseph Nourse, Register. / Register's office, November 18, 1782. /

Oblong f°. Broadside.

A copy is in the Library of Congress. It measures 24.5 x 38 cms.

Rules for Troops.

393. Rules and Articles / for the / Better Government / of the / Troops raised, or to be raised, / And kept in Pay, / By and at the Expence of the / United States / of / America. / Philadelphia: Printed in the Year / 1782. /

12°. pp. 39.

A copy is in the Library of Congress, *Colonial Pamphlets*, Volume 5, Number 3. It is a reprint of the Rules and Articles of 1776 (see No. 127) with two articles of 1777 added. There are some errors in numbering the sections.



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