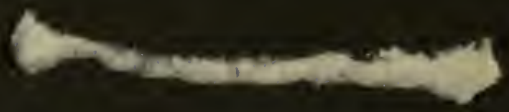

NARRATIVE AND CRITICAL

HISTORY OF AMERICA

The United States

OF

North America

PART II

NARRATIVE AND CRITICAL

HISTORY OF AMERICA

EDITED

By JUSTIN WINSOR

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[*The cut on the title shows the obverse of the seal of the United States as first designed.*]

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NARRATIVE AND CRITICAL

HISTORY OF AMERICA

CHAPTER I.

THE UNITED STATES OF AMERICA, 1775–1782.

THEIR POLITICAL STRUGGLES AND RELATIONS WITH EUROPE.

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Massachusetts Historical Society.

IT is the object of this chapter to describe the attempts made by the United States, during the earlier part of the Revolutionary War, to obtain recognition and aid from foreign countries, and to raise the money necessary for carrying on the struggle. The diplomatic situation in Europe will also be considered in so far as it affected the war. The final negotiations by which the conditions of peace were arranged, will be found in the succeeding chapter.

The second half of the eighteenth century was a time of intellectual and moral revolution. The ideas of men on their relations to each other were undergoing a fundamental change. The European nations, on the awakening of their minds in the fifteenth century, had at first turned principally to the consideration of theological and religious subjects. For two hundred years these had occupied them, almost to the exclusion of other ideas. But after the middle of the seventeenth century religious quarrels had lost some of their interest. The various parties of the Church had divided Christendom among themselves. The eyes of Europe were no longer directed to the skies, but turned on the world about. The corruption of the Church was forgotten in the corruption of the State. Men had learned to inquire curiously into their relation to God ; they were no longer afraid to consider their relations to each other.

But while active-minded and fearless men were questioning all things on earth, the governments of Continental Europe were still conducted according to the old ideas, with the general acquiescence of the governed. Men read and praised the *Spirit of the Laws* and the *Social Contract*, but they

lived contented under despots. New notions on the most important social and political relations of life were accepted and proclaimed by persons deeply interested in the old order of things. For centuries everything — everything, at least, worth naming — had first been undertaken by the great, or had not presumed to succeed without their patronage. Could it be otherwise with equality? The sentimentalists of the upper classes, good-natured and polite even when they were hard-hearted, had dreamed of a powdered and beribboned equality, with high-heeled shoes and a garlanded crook, — equality of the sheep, and yet superiority of the shepherds. "The general will is always upright, and always tends to public usefulness,"[1] even if little mistakes be made as to methods.

The American Revolution has been called the last of the political, as distinguished from the social revolutions. The principal reason of its being so was probably the fact that the social revolution had already taken place in America. The inhabitants of the Northern colonies, at least, were small freeholders, equal before the laws in so far as their rights to liberty and property were concerned. Slavery and bond-service, where they existed, affected in those colonies but a small part of the population. There were no feudal dues. At the North, therefore, no social revolution was possible. At the South such a revolution was not to come for more than eighty years. Yet it was the sympathy of the French aristocrats with the equality which they partly saw and partly imagined in America that strengthened the hands of an ambitious minister, and procured for the United States their only ally during the doubtful years of the war.

In England, political and social questions had at an early time been involved in religious questions. They had therefore been brought forward gradually, with the most fortunate results. The English, always a turbulent and stiff-necked people, have become in modern times the models of political conservatism, not because they have changed less than other nations since the Renaissance, — they have perhaps changed more than any, — but because they have taken two centuries to go over the road which the Continent has endeavored to travel in a few years.

From the Peace of Westphalia in 1648 to the Peace of Paris in 1763, France held unquestionably the first place in Europe. In arms she proved unequal to face the whole civilized world at once; but it was seldom, indeed, that a single antagonist dared to attack her. Her principal rival on land was Austria. At sea, Spain and England sometimes surpassed her in importance. Yet her colonies in America rivalled in extent those of either maritime power, and in Asia she contended for supremacy. Her intellectual and moral hegemony was yet more striking. Princes and courts modelled themselves on those of Versailles. The wit and learning of the Continent were content to reflect the light of Paris. In England alone did a vigorous school of native literature exist. But early in the second half of the eighteenth century French predominance received a check. As the

[1] Rousseau, *Contrat Social*, liv. ii. ch. 3

result of the Seven Years' War France lost most of her colonies, and witnessed the establishment of a new Continental power, destined to share in the decision of European questions. Farther east another great power was forming; while Spain, under its Bourbon king, the natural ally of France, was falling into the second rank. The condition of all these countries had some effect on the American Revolution; let us therefore briefly consider it.

In the course of the Seven Years' War France had seen her navy beaten and destroyed, and her armies defeated. By the Peace of Paris (1763) she surrendered all her possessions in North America,[1] and nearly all her pos-

LOUIS XVI.*

sessions in the East. As to the French finances, while everybody agreed that they were in a very bad way, no one appears to have known very particularly about them. The expenditure is thought to have exceeded the revenue, at the close of the reign of Louis XV, by something between twenty and forty million livres (or francs), but the amount is doubtful.

In 1774 a new monarch came to the throne of France. He was twenty years of age. He had the best possible intentions. He had sense enough

[1] Except the small islands of St. Pierre and Miquelon, near Newfoundland, which were retained by her.

* [From the *European Magazine*, Nov., 1789. Cf. *Harper's Mag.*, lxvi. 833. — Ed.]

generally to recognize the right. He had absolutely no strength of will in enforcing his own judgment. From the grosser vices, unless from those of the table, he was, for a prince, singularly free. His first impulse had been to appoint a virtuous and stern prime minister; but after the commission was actually in the hands of the messenger, Louis had recalled it at the instance of one of his aunts, an ignorant and bigoted woman, who during the preceding reign had been kept completely aloof from public affairs. The royal favor, thus diverted, had fallen upon the Comte de Maurepas, an old courtier of the kind which the reign of Louis XV had bred plentifully in the neighborhood of Versailles; a man who had charming manners, and absolutely no political principles. It is said, moreover, that his exalted position was not given to him by the king intentionally. Louis called the old courtier to consult with him on public business. Maurepas calmly assumed that he was prime minister. The story is so consonant with the character of the king that it may well be true.[1] Maurepas had been exiled from the court twenty-five years before the death of Louis XV for writing satirical verses about the Pompadour. He had borne his banishment to his own estate with cheerfulness, but had fully determined never to renew it. A quiet life and a firm seat in office were the first objects of his administration.

As prime minister the Comte de Maurepas exercised the principal influence over French policy. His position, however, was not commanding. The government was not one by cabinet; indeed, such a government did not yet exist in its entirety, even in England. M. de Maurepas could generally cause the dismissal of any other minister; but each minister, in his own department, was responsible only to the king. Only one, beside the chief, succeeded in keeping his place throughout the American war. This one was the Comte de Vergennes, who managed the foreign affairs. This man was, at the time of the accession of Louis XVI, in his fifty-fourth year, and had been trained in diplomacy from his youth. Grave in manner, laborious and methodical, he could keep his plans secure in his own breast until the time came for their accomplishment. Honestly devoted to the interests of France as he understood them, and without a sentiment or a principle in favor of any other country, he appears to have been from the first inclined to wish success to the colonies, in order to humble England; but he was determined to take no rash step. His political morality was that of the diplomats of his age, among whom words did not mean quite what they did to ordinary men; and he was not above employing spies among his friends, as well as among his enemies.[2]

[1] See *Mémoires de Madame Campan*, i. 80, 81 n., in the *Collection des Mémoires relatifs à la Révolution française*, Paris, 1822. See also the article on Maurepas in the Duc de Lévis' *Souvenirs et Portraits*.

[2] Concerning Vergennes and his character, consult the *Mémoires* of the Comte de Ségur, i. 254; the *Life of J. Adams*, by C. F. Adams, in the *Works of J. Adams*, vol. i. p. 299; and Bancroft's *History*, vii. 89, 90. [Cf. also C. C. de Rulhière's *Portrait du Comte de Vergennes* (Paris? 1788, — also in his *Œuvres*); "Vergennes et sa politique" and "et ses apologistes" in *Revue Historique*, xv. 373, xvi. 327; and sketch by John Jay in *Mag. of Amer. Hist.*, Jan., 1885. — ED.]

In the first year of the reign public opinion caused the king to call to the controllership of the treasury a man in whom the virtues and the faults of the best Frenchmen of his day were strikingly united. Turgot was born in Paris in 1727. Persuaded by his family to study theology, he published, while still a student, a remarkable treatise, in which, the love of this world getting the better of the love of another, he showed that the Christian religion has contributed to the material welfare of mankind. In the same year, 1750, he predicted, in another treatise, the separation of the American colonies from their mother countries; "for colonies," said he, "are like fruits, which hold to the tree only until they are ripe." [1] Widely accomplished, Turgot was at once a philosopher and a free-trader. As the administrator of a province he effected great reforms in the direction of the liberty of the subject, and equalized the incidence of taxation. But he had not the tact and the practical wisdom by which his enlightened ideas could be made comprehensible to the bulk of the people, or tolerable to the interested few whose privileges were disturbed. Turgot fell from power in May, 1776, but was not without influence on the course of affairs during the first months of the American Revolution.

Of the condition of the population of France, where the rich were almost exempt from taxation, while the tax-gatherer took from the small farmer more than a half of his income,[2] and the authorities called on him for bodily services on the roads and elsewhere, much has been written. In a country naturally one of the richest and most fertile in the world, the mass of the population was sunk in poverty. Such was the fertility of the land that every honest effort of good administration produced a marked improvement in public affairs. But the king had not the strength to stand by any honest effort. Government by a strong despot is often tolerable; government by the strong minister of a weak despot may be almost as good as the other; but government by a band of intriguing courtiers, no one of whom can obtain a complete ascendancy, is necessarily detestable, and to such a government France had been subjected since the death of Louis XIV in 1715, — we may almost say since the death of Richelieu in 1642.[3]

The throne of Spain was occupied by Charles III, a well-meaning prince, whose long residence in Italy as Duke of Parma and as king of the two Sicilies, while it had taught him many things, had put him out of sympathy with the Spanish character. He was, throughout his reign, torn by opposite opinions, which prevented him from following a decided line of policy. Liberal in his ideas of government, he supported for a time several intelligent ministers, but he gave great weight to the counsels of an ignorant

[1] *Œuvres de M. Turgot*, Paris, 1808–1811, ii. 19, 66.

[2] Taine, *Origines de la France Contemporaine*, *L'Ancien Régime*, i. 543.

[3] [Contrast, as to Louis XVI, the views of Capefigue and Bancroft. — ED.]

confessor. He drove out the Jesuits, who had long assumed an undue power in the state; but he allowed the Inquisition to dispose of the liberties, if not of the lives, of his most valuable servants.[1] He recognized the need of peace for Spain, but he loved France, he wanted Gibraltar, and he was thus twice led into war with England. He allowed his minister to write to London that he considered the independence of the American colonies no less injurious to Spain than to Britain, he refused to ally himself with the revolted provinces, but he attacked the mother country when trying to put them down.

Charles III had found the taxes in a very onerous and most complicated condition. They were imposed without system, and collected without honesty. The sale of salt was a monopoly of the government, and every town and village was obliged to consume a fixed quantity. Other articles of common use could not be sold without the payment of a tax, repeated at every sale, and both buyer and seller were obliged to report their transactions to the officers. The amount of the repeated duties soon exceeded the original price of the article. An army of excisemen, of all ranks and under various names, collected these dues, or were bribed to shut their eyes. Every officer might interpret the laws according to his own whim, as an instrument of oppression or corruption.

The king undertook to remedy this state of things by simplifying the taxes; but in 1777 his reforms extended only to Castile. His debts were few, but his credit bad. The revenue and the expenditure were nearly balanced, amounting to something over five million pounds sterling a year. There were ten or eleven million inhabitants in the kingdom.[2]

From Spain we turn to the opposite extremity of the Continent, where a mighty empire was just taking its place among European nations. Catherine II was by birth a petty German princess, in whose family eccentricity was pushed to the verge of madness. Her vices were shocking even to the lax morality of the courts of that age, and her amours will hardly seem the more pardonable to the moralist in that she made them serve her ambition. That ambition was wide. It prompted her at once to renew in her own person the Empire of the East, and to civilize in some measure the empire that she already governed. The former object was probably the nearer to her heart; and had she had to contend only against the feeble successor of Mahomet II, she might perhaps have seen her wish fulfilled. But then, as now, the Christian powers were the support of the Turk.

Next to Russia, among the northern powers, came the comparatively small country which the hardihood of its inhabitants and the genius of its king had recently raised to the first rank. Neither men nor money were abun-

[1] See the affair of Olavide in Rosseeuw St. Hilaire's *Histoire d'Espagne*, xiii. 124–127.

[2] George Grenville, p. 23 n. *The Present State of the Nation* (London, 1769); *Encyclopédie Methodique*, lxvi. 77.

FRIDERICUS II. BORUSSORUM REX.

FREDERICK II.*

dant; but while the former had poured out their blood like water whenever the service of their prince demanded it, the latter had never been expended but when a strict necessity or a prudent policy required the outlay. By exacting the most unsparing sacrifices from his people, and by administering the funds thus obtained with the greatest prudence, Frederick had come

* [After a print "Fridericus II. Borussorum Rex. Daniel Chodowiecki pinxit, Berolini. Daniel Berger sculpsit, Berolini, 1777." — ED.]

out of the Seven Years' War with no more debts than could be paid in the first year of peace. He went forward in the same economical course; remitting some taxes to the provinces on which the war had pressed most heavily, and encouraging manufactures, supporting a state bank, and planting forests, where the very trees, in their long, straight lines, might remind the wayfarer of Prussian discipline. The revenues of the state were reckoned at about eight million pounds sterling per annum, and it was supposed that more than a third of this sum was laid by, year after year.[1] Frederick considered himself ill-treated by England, which under Bute's administration had abandoned her ally in the negotiations which ended the Seven Years' War. A new cause of bitterness had occurred in 1772. The king was anxious to obtain possession of the city and harbor of Dantzig, and had negotiated with Russia for that purpose. Catherine II had taken the ground that Russia had guaranteed the independence of the free city. Frederick did not believe in the sincerity of so disinterested a motive, and attributed his difficulties to England's commercial jealousy. His policy kept him at peace, but his feelings sometimes found expression on the American side.

The great country which has in recent times risen to prominence under the name of Germany was in the eighteenth century cut up into nearly three hundred states, most of them small and despotic. A national sentiment was but slightly encouraged by the loose bonds of the German Empire. A national literature was just coming into being. Of two or three petty sovereigns, whose nefarious traffic in men brought them into close connection with the American war, I shall speak later. In the general politics of Europe the petty German states were an inconsiderable factor.

The republic of the Netherlands numbered at this time some two millions of inhabitants, crowded together in a very narrow space. The country was important, however, by its colonies, its commerce, and its wealth. The debt was large and the taxes heavy, but the funds, bearing two and a half per cent. interest, stood above par. Living was expensive; but the citizen enjoyed more liberty than elsewhere, and the press was so free as to have made Amsterdam a literary centre for liberal ideas, as well as a place of refuge for liberal politicians. The constitution of the Netherlands was federal. The central governing body was the States-General, in which votes were taken by provinces, in accordance with the same vicious system which at first was adopted in the United States of America. Of these provinces there were seven; but that of Holland was so much the most important as somewhat to counterbalance the broad and ill-defined rights of smaller provinces and of cities. The chief executive officers of the Netherlands at this time were under English influence.

[1] Frederick's own account of his finance at this period gives no figures of revenue, etc., but is very interesting for his general administration (*Œuvres Completes*, ed. 1792, iv. 247–270).

In England, as in France, a young king had come to the throne, not many years before, hailed with genuine pleasure and not ill-founded hope. Like Louis, George was the successor of a dissolute grandfather. Like him, he was virtuous, religious, well-meaning. Unlike the French king, the king of England had agreeable manners. In character, George was impetuous, headstrong, self-willed, where Louis was weak and undecided. With half of George's obstinacy, Louis might perhaps have kept his head; with half of Louis' pliancy, George might perhaps have kept America.

The rights of the king of England are far greater in legal theory than, since the revolution of 1688, they have been in practice. All those acts, indeed, which are done in the king's name may by the inconsiderate be supposed to proceed from the king's volition. A large and respectable party still held, in the time of George III, that the king's right was divine, while the rights of his subjects were of human origin. The king's person was regarded with almost superstitious veneration. It was not so many years since a sovereign had touched for scrofula. Dr. Johnson was the first literary man in England, and his estimate of his own importance was as high as his Toryism; yet Boswell scarcely exaggerates in speaking of the attitude of the doctor toward the king as "tempered with reverential awe." If this was the position of a singularly sturdy and independent man of letters, with too much native pride and good taste to flatter or to "bandy civilities with his sovereign," what was likely to be the attitude of the crowd of courtly clergymen, bred in the doctrines of divine right, or of professional courtiers, seeking to profit by royal favors? "The king governs the kingdom," says Blackstone; "statesmen, who administer affairs, are only his ministers." George III had heard the words of the jurist, and had mistaken them for the expression of an actual right, instead of understanding them to embody a legal fiction.[1] He wanted to be a king like other kings, as absolute in England as in Hanover, where indeed he was but an elector, yet had no one to gainsay him.

The readiest way to increase the power of the crown was to weaken that of the ministry; to have a royal policy; and to use influence, intrigue, and corruption, both in and out of Parliament, to break down any public servant who should oppose it. In order to do this, much of the patronage which was nominally in the crown, but which during the preceding reign had really been in the hands of the ministers, was resumed by the king in person. By such means, and by others less unworthy, a body of personal dependants, outside of the great Whig and Tory parties, was formed and supported. It had hardly as yet become a fixed rule of government that the whole cabinet should be of one political mind. The strange and elaborate modern system, in which the state is ruled alternately by one of two

[1] Blackstone, book I. ch. 7. "The *Commentaries* of Blackstone were not published until George III had been for some time on the throne; but Bute had obtained a considerable portion of them in manuscript from the author, for the purpose of instructing the prince in the principles of the constitution" (Lecky, *History of England in the 18th Century*, iii. 17).

contending parties, and in which government depends for its stability on there being not more than two such parties, and for its purity on the fact that the one that is out is strong enough to be a constant menace to the one that is in, had not then received its full development. George III was able, without seriously scandalizing his subjects, to form a group of "King's Friends," intended to rule the two factions. The House of Commons, occupied by a small oligarchy, was known to the intelligent to be the true centre of power, but the bulk of the people honestly believed themselves to be governed by their king, and probably preferred his rule to that of his servants.[1]

George's chief rival in power, at the beginning of his reign, was William Pitt. A man of the greatest genius and of unimpeachable public honesty, Pitt was at that moment conducting with wonderful success a war in which England had almost completely driven France from America and from Hindostan, and, with the assistance of the states of northern Europe, had forced her back upon that continent. But Pitt's arrogant manners and love of power had alienated his colleagues and offended the king. In spite of his popularity, the great war-minister was driven from office within a year of the time of George's accession. Less than eighteen months afterwards, the Peace of Paris (1763), concluded by the King's Friends, irritated and humbled the enemies of England and alienated her ally, without satisfying her people. "Now my son is king of England!" cried the mother of George III; and in truth the reign of that monarch had begun as it was to continue. For seven years a series of weak, unpopular, and divided ministries followed each other. How they drove the American colonies into rebellion has been told in another chapter.[2] In 1768 the King's Friends came permanently into power under the Duke of Grafton, who was followed in 1770 by Lord North. The triumph of the king was complete. For thirteen disastrous years George III governed England himself, and his ministers were indeed his servants. Those years ended with the fall of Yorktown.

The House of Commons at this time was elected by a very small part of the English nation. With a population of eight millions, there were but a hundred and sixty thousand voters. Nor did these make an unbiased choice. The seats in the House were at the disposal of the king, of the ministers, of peers, of rich commoners. Large sums were spent in influencing elections, large sums in buying votes in the House. But with all these limitations, Parliament still represented, in a measure, the enlightened opinion of Englishmen. Some of the private patrons, or of the members themselves, were so honorable, or so rich, as to be above the reach of bribes. Thus a respectable minority, at least, was maintained, strong enough to protest against acts repugnant to the conscience or the passions of the nation, though not to prevent them. This minority numbered among

[1] [Morley (*Burke*, ch. 5) thinks the British people were all with the king in his moves against the colonies. — Ed.]

[2] Vol. VI. ch. i.

its members at the time of the American war two of the greatest names in English history, — William Pitt, now created Earl of Chatham, and Edmund Burke. These men, with many others of less note, were at first favorable to the demands of the American colonies, partly because they believed that the cause of English liberty was wrapped up in those demands. Should the king regain the power of choosing his own ministers, should those ministers enforce their claim to tax British subjects who were not represented in Parliament, a long step would be taken toward the establishment of despotism in England. Nor were the fears of these men chimerical. In every country in Western Europe deliberative assemblies had once existed with substantial powers; in every important country but Holland such assemblies had either disappeared or had lost most of their control over national affairs.

The debt of England in 1775 was one hundred and thirty-five million pounds sterling. But so admirably had the finances been managed that the rate of interest was but little above three per cent. The army and navy were inadequate to the protection of a dominion which in America embraced the larger part of a continent, and in Asia already extended over many populous nations. In 1774 the number of seamen was reduced to 16,000, and of soldiers to 17,500. Nor was it easy to raise troops. England was already the great commercial and manufacturing country of the world. Her people were brave, and ready to endure necessary hardships, but they were in the main too comfortable in their homes to be eager to serve in the ranks for the scanty pay and scantier comforts of private soldiers.

From the beginning of 1775 the House of Commons was chiefly occupied with American affairs. The members opposed to the administration recognized that it was the battle of English freedom which they were fighting.[1] The weight of eloquence was on their side, but the greater number of votes were at the disposal of his majesty's government. Fox might keep the House interested, or Burke, with words of more real value, might drive it to dinner; but the result of every division was foreordained. In the Lords, similar scenes were enacted, with the same result. The Earl of Chatham, on the 1st of February, introduced a bill conceding most of the demands of the Americans, but maintaining the right of Parliament to keep troops in the colonies. Taxation was to be committed to a Congress, to sit at Philadelphia in May. After a warm debate the bill was rejected by sixty-one votes to thirty-two.[2]

In February an act was introduced in the Commons, by Lord North, to limit the commerce of New England, and to prevent her people from fishing upon the Banks of Newfoundland or in the Gulf of St. Lawrence.[3] The latter provision was purely penal, and was a response to the resolutions of non-intercourse passed by the Continental Congress; for it was highly

[1] Cf. ch. i. of Vol. VI.

[2] Almon's *Parl. Reg.*, ii. 17–33.

[3] Almon's *Parl. Reg.*, i. 193.

unfit, said the preamble, "that the inhabitants of said provinces and colonies should enjoy the same privileges of trade and the same benefits and advantages to which his majesty's faithful and obedient subjects are entitled." The governors of the colonies might suspend the act by proclamation, if it appeared that for one month merchandise had been freely imported into their colonies. The bill finally passed the Lords on the 21st of March.[1] On the 9th of that month a similar bill had been introduced into the House of Commons, to limit the trade of New Jersey, Pennsylvania, Maryland, and South Carolina.[2] It is noticeable that New York was not included in these penal measures, that province being considered less disaffected than the others.[3]

ADMIRAL LORD HOWE.*

The ministers, during this winter, consulted indirectly with Dr. Franklin. It was hoped that a plan might be agreed upon between the doctor and Lord Howe, which, reinforced in America by the personal popularity of the one and the family popularity of the other, might lead to a reconciliation between England and the colonies.[4] The views of Franklin and of the ministry were, however, too far apart. Nothing came of the several plans prepared, and in the middle of March the doctor started on his return to America. Before his departure he had an interview with the French minister, who pointedly reminded him that France had contributed to the independence of the Netherlands.[5] To Franklin, the separation of England and America already seemed inevitable.[6]

[1] Statutes at Large, 15 Geo. III, ch. 10.

[2] Almon's *Parl. Reg.*, i. 312; 15 Geo. III, ch. 18.

[3] Almon's *Parl. Reg.*, ii. 85.

[4] Sparks's *Franklin*, i. 377–391.

[5] Bancroft, vii. 262, 263.

[6] Franklin, after his return, in the summer and autumn of 1776, corresponded with Lord Howe, who wished to bring about the submission of the colonies, and on the 11th of September a conference was held on Staten Island between his lordship and Franklin, J. Adams and Edw. Rutledge. These negotiations led to no result (*Franklin's Works*, i. 414).

[Lord Howe, when off the Massachusetts coast, June 20, 1776, prepared a proclamation of pardon (*N. H. State Papers*, viii. 159), and issued it on his arrival at Sandy Hook in July, and caused it to be industriously circulated (Parton's *Franklin*, ii. 136; letter of July 22, 1776, in *Sparks MSS.*, no. xlix. vol. ii.). There is a copy in the Mass. Hist. Soc. library (*Miscellanies*, 1632–1795, p. 125). Howe also dispatched a letter to Jos. Reed, who sent it to Congress (Reed's *Reed*, i. 197). Bancroft contends that Reed was inclined to an "accommodation" (*Joseph Reed*, 14). Howe sought to address the American general as "George Washington, Esq.," on this matter, and his letter was returned (Sparks's *Washington*, iv. 509; S. B. Webb's journal in Gay, *Pop. Hist. U. S.*, iii. 496; Reed's *Reed*, i. 205; Drake's *Knox*, 131). Sir William Howe issued a proclamation of pardon, Aug. 23 (Force, 5th ser., i. 1121; *N. H. State Papers*, viii. 318). After the battle of Aug. 27, on Long Island, Howe sent his prisoner Sullivan to Congress with a message of conciliation. Cf. Patrick Henry on this, in *Sparks MSS.*, no. xlix. vol. ii. (Sept. 20, 1776). John Adams says many were duped by it (*Familiar letters*, 192, 223). Then

* [From Doyle's *Official Baronage*, ii. 213. The portrait in Sir John Barrow's *Life of Richard, Earl Howe* (London, 1838) represents him in advanced years. Gainsborough's picture is in Lodge's *Portraits*. Copley's picture of him was engraved by William Sharp. There is a cut in the *European Mag.*, vol. ii. (1782) p. 432. Cf. E. P. Brenton's *Naval History* (1837), i. 123. — Ed.]

The circumstances under which the Congress of 1775 met were very different from those under which that of 1774 had separated, for, in the interval, bloodshed had taken place. At first the task of organizing defence was largely left to the several States. On the day when the credentials of members were read, a letter from the Provincial Congress of Massachusetts Bay announced that the province had voted to raise 13,600 men and one hundred thousand pounds of lawful money, and called on the continent to support the common cause and to assist in giving currency to the notes.[1] The issue of paper money was in fact the favorite scheme of the colonies. In the year 1775 every one of them had recourse to it.[2] The first month of its meeting was not ended before the Continental Congress was busied with plans for issuing paper. Before these could be perfected, six thousand pounds were borrowed, "for the use of America," apparently in Philadelphia, and the money applied to the purchase of gunpowder for the Continental army. This appears to have been the first financial operation of what was to become the United States.[3]

It was the advice of Franklin that Congress should continue to raise money by loans, rather than by an emission of bills. The paper currency was, however, preferred by the people and by the delegates. "Do you think, gentlemen," cried one, "that I will consent to load my constituents with taxes, when we can send to our printer and get a waggon-load of money, one quire of which will pay for the whole?" [4] But a majority of the members of Congress had a clearer idea of what was necessary for the public credit. The issue of bills voted in June and July amounted to three million dollars, and the several States were requested to redeem their shares from the year 1779 to 1782.[5] In December, 1775, another emission was ordered, also of three million dollars. These notes were to be redeemed by the States during the four years beginning with 1783.[6] During the years

came the meeting of Franklin, Adams, and Rutledge with Howe near Amboy (view of the house where they met, in Gay, iii. 512). There are accounts of the interview in Sparks's *Franklin*, i. 412; v. 97; viii. 187; and in *John Adams's works*, iii. 75; ix. 443. Cf. Parton's *Franklin*, ii. 137, 141. The committee reported, Sept. 17, that nothing but submission would suffice (*Journal of Congress*, i. 477). Howe's report is in Almon's *Remembrancer*, viii. 250, and *Parliamentary Register*, viii. 249. Cf. further on the matter, *John Adams's works*, i. 237; Wells's *Sam. Adams*, ii. 443; Amory's *Sullivan*, 30; Reed's *Reed*, i. ch. 12; Read's *Geo. Read*, pp. 174, 189, 190; Lossing's *Schuyler*, ii. 37; Force, 4th ser., vi.; 5th ser., i., ii.; Bancroft, viii. 360; ix. 37, 116; Mahon, vi. 107, 112; Barrow's *Earl Howe*, ch. 4; Sargent's note in his *Stansbury and Odell*, p. 134.

For the proclamation of Sir Wm. and Lord Howe, issued Nov. 30, 1776, see original in Mass. Hist. Soc. library (*Proc.*, xii. 186); printed in *N. Y. Gazette*, Dec. 16, 1776; in Force's *Archives;* in Moore's *Diary of the Rev.*, 352. Cf. Sabin, viii. pp. 485, 486. In the *Sparks MSS.*, no. lv., is a series of transcripts, from the State Paper Office, of the instructions (May 6, 1776) of the Commissioners, the letters between them and Lord Geo. Germain, loyalists' memorials to the Commissioners, and also an account of their interview with the Committee of Congress, annotated by Howe, after a MS. in the handwriting of Henry Strachey, secretary, belonging to Geo. H. Moore. — ED.]

[1] *Journal of Congress, May 11th, 1775.*

[2] Albert S. Bolles's *Financial Hist. of the U. S. from 1774 to 1789*, 147.

[3] *Secret Journals of Congress — Domestic, June 3d, 1775.*

[4] Pelatiah Webster, *Political Essays*, p. 7 n.

[5] *Journals of Congress, June 22d, July 25th and 29th, 1775.*

[6] December 26, 1775.

1776 and 1777 the issue of paper money went on with increased velocity, so that when the alliance with France was made public in 1778, the amount

JOHN HANCOCK, PRESIDENT OF CONGRESS. (*Impartial History*, London Ed.) *

of Continental paper in circulation was fifty-five million, five hundred thousand dollars.[1] As a matter of course, such large emissions caused a depre-

[1] Bolles, i. 59.

* There is an early engraving in the *European Mag.*, 1783.

ciation, which, insignificant in 1776, went on increasing. In 1777 one silver dollar was worth from two to four paper dollars, in 1778 from four to six, and in 1779 from eight to thirty-eight and a half.[1]

The refusal to take the Continental money at its face value was at first regarded as unpatriotic and criminal. In December, 1776, Washington was authorized to arrest and confine persons who would not receive the money, and to seize their goods when wanted for the army. Putnam, whom the fugitive Congress had left in command at Philadelphia, did actually close and pillage some shops in the city.[2] Meanwhile, people who had goods to sell could not bring themselves to look on the promises of a Congress, which had just fled from its capital city, as being as good as silver. The Quakers said that it was against their conscience to take bills issued in support of a war. The scruples of other persons were perhaps as heartfelt. Commerce was arrested. The very innkeepers took down their signs. Men were brought back to the primitive process of barter. Prices rose as the currency sank, but at a faster rate. Other circumstances besides the depreciation contributed to raise the value of commodities, so that it is said that even a silver dollar would at one time buy but a third as much as before the war. The rise of prices was, of course, attributed to the machinations of the Tories, and *maxima* were set in most States by law.[3]

The issue of paper money was not the only expedient adopted. Others were tried, but with little result. A loan of five million dollars and a lottery were proposed in 1776, but they do not seem to have brought in much. The States were called upon to advance money at six per cent. interest. A little was collected; Georgia, in particular, came forward with alacrity; but resistance to taxation was the cause of the war, and the people were unwilling to be taxed to carry on hostilities. The attempts of Congress to obtain the concurrence of the States in imposing an import duty of five per cent., in order to pay the debts of the federation, were frustrated by Rhode Island, and finally abandoned. Confiscation of the property of Tories was a more agreeable device. It was resorted to by all the state governments. How much property was taken in this way cannot be known, but the English government subsequently gave compensation to the loyalists to an amount exceeding three millions sterling. But it is not probable that the gain of those who confiscated was nearly as great as the loss of those who were driven away. Real estate, disposed of in troubled times by forced sale, seldom brings good prices.

Like Congress, the state legislatures had recourse to issues of paper money. Individuals gave tokens and certificates for small change. These practices, however, soon came to an end. On the 15th of February, 1777, Congress advised the States to stop issuing bills, and to rely upon those of

[1] Jefferson's table, given in Henry Phillips Jr., *Historical sketches of American paper currency*, Roxbury, 1865–1866, ii. 199.

[2] Bolles, i. 119.

[3] See Bolles's chapters on "How paper money was received," and on "Limitation of Prices;" also a letter from John Adams to Elbridge Gerry, 6th Dec., 1777, *Works*, ix. 469.

the general government. The States generally followed this advice. The amount of specie which came into the coffers of Congress during the earlier part of the war was remarkably small. The French contributions of that time were mostly spent in Europe. Of gold and silver the government of the United States received into its treasury but $78,666 in 1778, and $73,000 in 1779.[1]

During the year 1775 public opinion was becoming more definite in England, where national and military pride were aroused by the actual outbreak of hostilities. Many men who in 1774 had not approved of the conduct of ministers toward the colonies now thought it too late to look back or to inquire into past causes. Such persons held that government must be supported at any rate; that the dominions of the crown must be preserved at all hazards; and that, whoever had been right in the beginning, the insolence of the Americans now deserved chastisement. The clergy, the army, the lawyers, were generally of this party. The opinion of literary men was divided, but the great names of Johnson, of Gibbon, and of Robertson lent their weight to the ministerial side.

The merchants whose business lay in America, and indeed a majority of the inhabitants of the great trading cities of London and Bristol, still wished that conciliatory measures might be adopted. Some other traders, however, saw the preparations for a war, the letting of their ships for transports, and the profits of army contractors with great pleasure. The common people were apathetic and uninterested. Recruiting, both in England and Ireland, went on very slowly, in spite of great efforts on the part of the military authorities. This circumstance might have been fatal to the hope of subduing the colonies, had the king of England been obliged to rely exclusively on his own dominions for soldiers.[2]

There was, however, no such necessity. The idea that governments are made for the subject, not subjects for the government, was on the continent of Europe still confined to the heads of philosophers, and had not seriously influenced practical politicians. The despots, large and small, looked on their countries as their farms; on their nations as their flocks and herds. The few and weak republics, the numerous free cities of the German Empire, were mostly governed by oligarchies as despotic as the neighboring petty princes. The subject, whether of a German serene highness or of a Swiss aristocratic canton, could be called on to perform military service at the will of his sovereign.[3] That sovereign might use his soldiers for ambition or for profit. He might seek alliances and try to rob his neighbors of terri-

[1] Samuel Breck's *Historical Sketch of Continental Paper Money*, Philadelphia, 1843, p. 13.

[2] On the state of public opinion at this time, see the *Annual Register for 1776*, p. 38. The article is attributed to Burke. See also Lecky, *England in the XVIIIth Century*, iii. 529.

[3] Seven hundred thousand Swiss soldiers had been in the French service since 1474. In 1777 there were about sixteen thousand of them,—a smaller number than at any time since 1488. The cantons had received in subsidies over ninety-six million florins in three centuries (Schlözer's *Briefwechsel*, vi. 67–82).

tory; or he might part with his troops for subsidies, and spend his money on his palace, his mistresses, or his journeys to Paris or to Italy. The former employment of his men was considered the more honorable, but not the more legal. Among these petty sovereigns the king of England had relations and a home. In his character of Elector of Hanover he was one of them himself. George III was an Englishman in feeling, as his grandfather and predecessor had not been; but so far was he from recognizing the right of his subjects to fight only in their own quarrels, that one of the first of his preparations for war consisted in sending five battalions of his Hanoverian soldiers to garrison the English fortresses of Gibraltar and Port Mahon.[1] An equal number of Englishmen were thus released for service in America. It was quite practicable to pick up an army piecemeal among the small princes of Germany; but a larger scheme presented itself. Catherine II of Russia had concluded, in 1774, an advantageous peace with the Porte. A reduction of her army seemed desirable, and George III conceived the idea that she might follow the example of the petty princes, and let out a part of it to Great Britain. The Empress Elizabeth had once accepted a subsidy from England:[2] why should not Catherine go a step farther? The king hoped to get twenty thousand men. He was willing to take fifteen or ten thousand. Nor was he inclined to be stiff as to terms; but he is said to have insisted on the condition that the Russians should serve, not as auxiliaries, but as mercenaries, and that the Russian general should be absolutely under the command of the British.[3] George little understood the extraordinary woman who occupied the Russian throne. Catherine received the proposal of the king with scant courtesy. "I should not be able," she wrote, "to help reflecting on the consequences which would result for our own dignity and for that of the two monarchies and the two nations, from this junction of our forces, simply to calm a rebellion which is not supported by any foreign power." The king's letter had been written with his own hand; Catherine's answer was in the writing of a secretary. This breach of politeness was taken to heart by the dull, proud king.[4]

There was in the service of Holland a brigade of about twenty-one

[1] Twenty-three hundred and sixty-five men. Col. Faucitt was sent to Germany to muster them into the English service. His instructions are dated Aug. 11, 1775. The men were embarked on the 2d and 6th of October. George III received no subsidy for lending his troops; he only asked to be reimbursed for levy-money and expenses (*Corres. of King George III with Lord North*, 2 vols., London, 1867, i. 257-260).

[2] Koch, *Histoire abregée des Traités de Paix*, &c., iii. 14.

[3] See a letter of Gibbon to Holroyd, October 14, 1775, in the *Miscellaneous Works of Edward Gibbon* (2 vols., London, 1796), i. 495.

[4] Mr. Bancroft has devoted his fiftieth chapter to this negotiation. The remarks of Frederick the Great are worth noticing: "Les Anglais ont manqué de tout temps d'art et de souplesse dans leurs négociations; attachés avec acharnement à leurs interets, ils ne savent pas flatter ceux des autres; ils pensent qu'en offrant des guinées, ils peuvent tout obtenir. Ils s'adressèrent d'abord à l'impératrice de Russie, et la choquèrent d'autant plus par leurs demandes que la fierté de cette princesse regardait comme bien au dessous d'elle, d'accepter des subsides d'une autre puissance" (*Œuvres*, ed. 1792, iv. 291). See also *Corres. of King George III with Lord North*, i. 282. It would seem, however, that the Empress and her ministers had used expressions in August, 1775, before absolute proposals were made, which justified the English ambassador in believing that such proposals might be accepted (Bancroft, viii. 107).

hundred men, composed of soldiers of all nations, but officered entirely by Scotchmen. King George applied to the Prince of Orange to lend him this brigade. The terms of the request were haughty and threatening, and the States-General were not inclined to grant it. The matter was long postponed by them, and at last an answer was sent to the effect that the brigade might be lent, but only on condition that it should not serve outside of Europe. Thereupon the request was allowed to drop.[1] A certain number of the troops afterwards obtained were embarked from Dutch ports.

The British king and his cabinet now had recourse to a set of princes who were neither so great nor so proud as to despise his subsidies. Colonel William Faucitt, who had been sent to Germany to muster the Hanoverians into the English service, was trusted with a mission. He was to obtain men — where England had often obtained them before — of the poor relations of the house of Hanover.[2] The Earl of Suffolk, who as Secretary of State directed the negotiations, underrated the product of the German stockyards. He hoped to get three or four thousand men from Brunswick and five thousand from Cassel.[3] In November, 1775, he sent the following instructions to Faucitt: "Your point is to get as many as you can. I own to you my own hopes are not very sanguine in the business you are going upon: therefore, the less you act ministerially before you see a reasonable prospect of succeeding, the better. Get as many men as you can; it will be much to your credit to procure the most moderate terms, though expense is not so much the object in the present emergency as in ordinary cases. Great activity is necessary, as the king is extremely anxious; and you are to send one or two messengers from each place, Brunswick and Cassel, the moment you know whether troops can be procured or not, without waiting for the proposal of terms."[4]

Colonel Faucitt received this letter on the 24th of November, in Stade,[5] and set off within a few hours. The nights were long and dark, and the

[1] Bancroft, viii. 251.

[2] See an interesting letter from Sir J. Yorke to Lord Suffolk, quoted in the appendix to the 1st edition of Kapp's *Soldatenhandel*, from State Paper Office, Holland, vol. 592, no. 55 (private). Sir J. Yorke is described in Wraxall's *Memoirs* (Scribner, 1884), i. 130.

[3] George III wrote to Lord North, Nov. 12, 1775: "I have no objection to the Landgrave of Hesse Cassel and the Duke of Brunswick being addressed for troops to serve in America; the former may perhaps be persuaded, but the latter I should think will decline; but the duke's troops certainly shewed so much want of courage in the late war, that I think Carleton, who can have but a small number of British troops, ought to have the Hessians" (*Corres.*, i. 293). Carleton got the Brunswickers.

[4] *Corres. of George III with Lord North*, i. 294, n.

[5] He was just then mustering into the English service some men whom a certain Lieut.-Col. Scheither had enlisted on his own account. This officer, a Hanoverian, had undertaken to raise four thousand soldiers. The whole of Germany at this time was covered with the recruiting stations of various powers, and competition was brisk. Lieut.-Col. Scheither's offers and the prospect of service in America would appear not to have been very attractive, for he had only brought together one hundred and fifty recruits. He seems to have acted under some difficulties, and not to have received the full countenance of George III in his character of Elector of Hanover. The laws of the empire against recruiting for foreign service were strict, and his majesty perceived that, "in plain English," they were turning him into a kidnapper which he "could not think a very honourable occupation" (*Corres. of George III with Lord North*, i. 292, 297). Scheither received ten pounds a head for his recruits.

road seemed to the impatient envoy the worst in Europe. It took him five days to get to Brunswick, a journey of about a hundred miles.

The government of Brunswick was in 1775 divided between the reigning duke, Charles, and his son, Charles William Ferdinand. The former had come to the throne some forty years before, and his reign had been ambitious and extravagant.[1] In 1773 the duke's oldest son had come to his assistance. Prince Charles William Ferdinand had inherited Prussian thrift along with the fine blue eyes which might remind those who saw him of his famous uncle, the great Frederick.[2] The duke his father might not draw a thaler without his signature. It was to the prince, therefore, that Colonel Faucitt's mission was really addressed.

The colonel was no stranger in Brunswick. He had served under the prince in the Seven Years' War. Immediately on his arrival he presented himself at the palace. Charles William Ferdinand was not very encouraging. For his own part, he would be happy to assist his brother-in-law, but he could not answer for the duke. Might not the troops be used in Ireland, or, some of them at least, at Gibraltar? He advised Faucitt not to appear in his public capacity until he was sure that the duke would accept the king's offer. The sight of the troops, said the prince two days later, was the only pleasure of his father's old age.[3]

Faucitt was kept waiting, however, only three days. The duke received him graciously, and referred him to his minister, Féronce, with whom to make a bargain. Negotiations went on speedily. The treaty, dating as of the 9th of January, 1776, was finally ratified on the 18th of February. Both Faucitt and Féronce received presents, on the ratification, from the courts with which they had negotiated. This appears to have been done openly. The gift of the Duke of Brunswick to Faucitt was a diamond ring worth a hundred pounds. Féronce received money, but the amount is not known.[4]

The treaty provided that the Duke of Brunswick should yield to the king

[1] A brother-in-law of Frederick the Great, he had assisted that monarch in the Seven Years' War with an army of 16,000 men, while his duchy numbered but 150,000 inhabitants. Nor did money go for soldiers alone. A college was founded and reforms were undertaken. The Italian opera, the French ballet, the German drama, found their home in the city of Brunswick, which Duke Charles had paved and lighted. A debt of twelve million thalers was contracted, while the yearly income of the duchy was only a million and a half.

[2] He made the most of his personal appearance, practising before the looking-glass the various rôles of gracious sovereign, serious statesman, tender friend, or fiery soldier. Crafty and able, he was a favorite with his uncle of Prussia, in whose army he served, and in whose concerts he played first violin. He had married the Princess Augusta, the older sister of George III, and had received with her a dowry of £80,000, with an annuity of £5,000 chargeable on the Irish revenue, and £3,000 on the revenue of Hanover. She was a dull, good-natured woman, willing to share her influence with her husband's mistress. Economy was now the principal business of the prince. (Vehse, *Geschichte der deutschen Höfe*, vol. 22.)

[3] *State Paper Office*, *German papers*, vol. 101, quoted in German in the 1st edition of Kapp's *Soldatenhandel*, pp. 44, 45.

[4] See in Almon's *Parliamentary Register*, vii., second table after page 58, the amounts spent each year from 1769 to 1777 for "jewels, or presents in lieu thereof, to ministers from abroad." The amount for these eight years was £11,457 7*s*.

of England a corps of 3,964 men infantry, and 336 cavalry, unmounted. They were to be fully equipped at the duke's expense, and officered by him. Of these men, 2,282 were to be ready to march on the 15th of February, and 2,018 in the last week of March, and the king was to cause most precise orders to be given in his electoral dominions that all necessary measures be taken to stop deserters, and convey them to the place of embarkation, there to join their regiments. Recruits were to be forwarded annually as needed.

The king granted to this corps all the pay[1] and perquisites enjoyed by the royal troops, and the duke agreed to let the troops actually receive the pay so granted. The king was to take care of the sick and wounded as of his own subjects.

There was to be paid to his Most Serene Highness, under the title of levy-money, 30 crowns banco, or £7 4*s.* 4½*d.* sterling, for every common soldier actually delivered to his Majesty's commissary at the place of embarkation. "According to custom," ran the next article, "three wounded men shall be reckoned as one killed; a man killed shall be paid for at the rate of levy-money. If it shall happen that any of the regiments, battalions, or companies of this corps should suffer a loss altogether extraordinary, either in a battle, a siege, or by an uncommon contagious malady, or by the loss of any transport vessel in the voyage to America, his Britannic Majesty will make good, in the most equitable manner, the loss of the officer or soldier, and will bear the expense of the necessary recruits to re-establish the corps that shall have suffered this extraordinary loss."

This clause is striking, as showing the strictly mercantile nature of the transaction. The corps of troops was the object of a lease. The lessor undertook to bear the loss occasioned by ordinary wear and tear, — in other words, the loss by death and disease, in the ordinary course of nature, — but the lessee was to be liable for any extraordinary waste or deterioration, by tempest, battle, or pestilence.

No extraordinary services, nor such as were out of proportion to those of the rest of the army, were to be demanded of these troops. The corps was to take the oath of fidelity to his Britannic Majesty, without prejudice to the oath which the soldiers had already taken to their own sovereign. In consideration of the expenses occasioned by the hasty equipment of the corps, two months' pay previous to the day of march was granted; but whether this was pocketed by the duke or by the soldiers does not appear.

The rent to be paid for the corps, by the king to the duke, amounted to £11,517 17*s.* 1½*d.* every year, from the date of the treaty, for so long as the soldiers should be in English pay, and twice that amount for two years after their return to Brunswick. This article caused a good deal of chaffering, but Faucitt made at last a better bargain than his instructions demanded. Indeed, Lord Suffolk's principal concern was lest time should be

[1] For the amount of this pay see Schlözer's *Briefwechsel*, vi. 342.

lost. The Brunswick contingent was assigned to the army in Canada, and an active campaign in that province, in 1776, was hoped for.

From Brunswick to Cassel is about sixty-five miles. Leaving the particulars of his treaty with the ducal court unsettled, as soon as the essentials were provided for, Colonel Faucitt hastened off to the pretty little capital on the Fulda, and opened negotiations with Landgrave Frederick II of Hesse-Cassel.[1]

Faucitt arrived in Cassel on the 10th of December. He was to deal with Baron von Schlieffen, an accomplished diplomat and soldier. The court of Cassel was in better circumstances for making a bargain than that of Brunswick. The landgrave was in no pressing need of money ; the number of his troops was greater than that of the duke's, and the reputation of the men was higher. Faucitt asked for ten or twelve thousand soldiers, and was surprised to find that the larger number was immediately granted him. The terms, however, were not such as he had obtained from Brunswick. The landgrave was important enough to exact consideration. The treaty provided that there should be between his Majesty the King of Great Britain and his Most Serene Highness the Landgrave of Hesse-Cassel, their successors and heirs, a strict friendship and a sincere, firm, and constant union, insomuch that the one should consider the interests of the other as his own, and apply himself in good faith to advance them to the utmost, and to prevent and avert mutually all trouble and loss. In pursuance of this policy of alliance, the king and the landgrave agreed to help each other, should the dominions of either be attacked or disturbed.

Under the treaty, the Hessian troops were not to be separated, unless reasons of war should require it, but to serve under their own general. This article was not observed in practice, one or more Hessian regiments taking part with the English in almost every operation in America.[2] Like the Brunswickers, the Hessians were to receive pay at the English rate. Von Schlieffen acknowledged that in former cases his government had not treated the soldiers fairly in this respect, but had received wages from the English at one rate, and paid the men at a smaller one. Out of respect for

[1] Frederick II of Hesse Cassel was the uncle of George III, having married the Princess Mary, daughter of George II. Frederick, however, had been converted to Catholicism, attracted, it was said, more by the ornamental side of that form of worship than by the tenets. He was certainly neither moral nor devout. He had maltreated his English wife, and she and her children left him when his conversion was made public in 1754, and did not see him again for the eighteen years during which she survived the separation. She died in 1772, and in 1773 the landgrave married again. For his second wife he soon came not to care at all. His mistresses and his bastards were numerous. In many respects the landgrave was frugal ; yet he built a large Catholic church in his Protestant capital, an opera house, and a museum. In his nefarious business he was diligent. His troops were excellent, and it was his favorite amusement to drill them himself. On rainy days he would even use the dining-room of his palace for this purpose. The men were not, even nominally, volunteers, as were most of the German soldiers of the time, but, like those of Prussia, were obtained by a rigid conscription, although every encouragement was given to officers to enlist strangers as volunteers.

[2] The German soldiers in America would appear to have been kept more together during 1776 than in later years.

the landgrave's feelings, the baron refused formally to renounce this practice, but he promised that things should be fairly managed this time. The levy-money was to be 30 crowns banco per man, as with Brunswick; but it was exacted for officers as well as for privates. The subsidy was proportionally greater than that of Brunswick, running at the rate of £108,281 5*s.* per annum from the date of the signature of the treaty until one year after the return of the troops to the Hessian dominions. The effect of these stipulations was that the landgrave received twice as much per man as the duke, although, had the war been a short one, as was expected when the bargain was made, his comparative advantage would have been smaller. In addition to this the landgrave received the sum of £41,820 14*s.* 5*d.*, which he claimed for hospital expenses in the Seven Years' War. This claim had been disallowed by the British government fourteen years before.[1]

The treaty with Hesse-Cassel had no clause requiring England to pay for killed or wounded soldiers, except in case a regiment or company should be "ruined or destroyed either by accidents of the sea or otherwise."

The Earl of Suffolk's principal demand was haste. The colonies were to be brought to obedience in 1776; hence everything was pushed forward in Hesse. The English transports, however, were delayed. The first division of Hessians was mustered into the British service at Bremerlehe, near the mouth of the Weser, between the 20th of March and the 14th of April, 1776, and presently put to sea. The soldiers were fine men, in the prime of life; all well disciplined but one regiment — that of Rall, which had been too quickly raised from a peace-footing. The second division was embarked in June. The regiments had mostly been filled up for this service, and few of the soldiers looked more than seventeen or eighteen years old, but all were born Hessians. The whole force, when united, amounted to 12,394 men. The first division reached America before the battle of Long Island; the second, before the battle of White Plains.[2]

Several additional companies of chasseurs, trained marksmen, and gamekeepers were added to the Hessian contingent in 1777 and afterwards. Recruits, to fill the ranks which death or desertion had thinned in America, were promptly forwarded. These last were generally poor material, and less trustworthy than the men first sent.[3]

When the two great contracts with Brunswick and with Hesse-Cassel were concluded, Colonel Faucitt had time to attend to smaller business. When the Princess Mary, the unfortunate English wife of Landgrave Frederick II, left her husband in 1754, she took with her three sons to Hanau.

[1] Schlieffen, p. 188; *Annual Register for 1777*, p. 88. Schlieffen says that the ministry waited until a day when most of the opposition were out of town to put the vote. Schlieffen succeeded in obtaining from Lord Suffolk levy-money for military servants. This money, with the consent of the landgrave, was paid to Schlieffen himself, in recognition of a bold stroke performed by him in the Seven Years' War, when an aide-de-camp to Prince Ferdinand of Brunswick (Schlieffen, p. 190). For an account of this exploit, see Ewald's *Belehrungen*, iii. 433.

[2] The battle of Long Island was fought around Brooklyn, August 27; while the engagement at White Plains took place October 28, 1776.

[3] Gen. Knyphausen's Report to the Landgrave, *MS.*

William, the eldest of these sons, was independent count of that place. He was a narrow pedant, fond of books, and restlessly busy. He had the love of fine buildings, which was hereditary in his family, but was otherwise economical to the point of stinginess. To his cousin, George III, he looked up as to his protector; and, indeed, two Hanoverian battalions had at one time been stationed in the county to insure its independence. As early as August, 1775, the hereditary prince had written to the king of England, in bad French, to offer him a regiment of infantry, "all sons of the country," said he, "which your Majesty's protection alone assures to me, and all ready to sacrifice, with me, their blood for your service." The Earl of Suffolk could not sufficiently admire "the nobleness of sentiment and affectionate attachment which dictated his Serene Highness's offer, and the handsome manner in which it was expressed." Colonel Faucitt gave to the Count better terms than to any other dealer, except his serene father, the Landgrave. The Hanau regiment, six hundred and sixty-eight strong, was embarked on the Main, and followed the course of that river and of the Rhine to Holland. It served in Canada under Carleton and Burgoyne. Artillery and chasseurs were sent later, and proportionally paid for.[1]

Up to the time of the conclusion of the treaty with the Count of Hanau the ministers of King George III had been dealing only with princes who were related to that monarch, or connected with him by marriage.[2] In the cases of the Prince of Waldeck, the Margrave of Anspach-Bayreuth, and the Prince of Anhalt-Zerbst, the dealers in human flesh had not even the poor excuse of kindred. The bargains made with them present no new features. All bear a resemblance to the treaty with the Duke of Brunswick and to that with the Landgrave of Hesse-Cassel. None are so favorable to the petty princes as the latter; none so unfavorable as the former. Negotiations with Bavaria, Würtemberg, and two or three smaller states, came to nothing.[3]

The treaties[4] for hiring German troops called forth warm debates in the House of Commons and the House of Lords. While Lord North and his supporters defended them as necessary and advantageous, the opposition

[1] Contract in Lowell's introduction to Pausch's *Journal*.

[2] The descendants of the landgrave and the duke were also descendants of the Electress Sophia; a fact used in argument by those who favored the letting of troops.

[3] For the estimates for the pay of the German troops and the subsidies of the German princes, see the *Parliamentary Register*, 1776 to 1785, copied in the first edition of Kapp's *Soldatenhandel* (Appendix). Col. Faucitt was paid at the rate of £5 a day while conducting these negotiations; Col. Rainsford, who mustered the troops in Holland, £3 a day (Almon's *Parliamentary Register*, vi. 207). [The "Transactions" of Rainsford "as commissary for embarking foreign troops from Germany, with copies of letters relative to it, 1776–1777," are in the *N. Y. Hist. Soc. Coll.*, 1879, p. 313, etc. Capt. Foy, who saw the Brunswickers at Stade, March 8, 1776, thought them capable of what might be required of them. (*Sparks MSS.* no. xxxii.) The muster rolls of the German auxiliaries in 1781–82, as mustered by the British commissary of muster, William Porter, are noted in John Gray Bell's *Catal. of books relating to the Amer. Rev. War* (Manchester, Eng., 1857), nos. 590–655, 693–697. — Ed.]

[4] They are given in the *Parl. Reg.*, iii. and vii., and in Force, 4th ser., vi. 271–277, 356–58.

poured all its scorn on the princes, the soldiers, and the ministry. Nor were these bargains condemned in one debate alone. They formed thenceforth one of the standing grievances of which the friends of America complained. "Were I an American," cried Chatham, "as I am an Englishman, while a foreign troop was landed in my country, I would never lay down my arms — never — never — never." [1]

The ministers of the king of France had watched the quarrel between England and her colonies with the greatest interest. They had sent an agent in the autumn of 1775 to spy out the condition of things in America, and to encourage the insurgents.[2] In March, 1776, the Comte de Vergennes addressed a minute to the King, in which he pointed out that the continuation of civil war between England and the colonies might be infinitely advantageous to the two Bourbon houses of France and Spain, as such a war would exhaust the victors and the vanquished. Peace between the contestants he held to be dangerous, whichever side might prevail; for the conquering party might attack French and Spanish America for the sake of commercial advantages; or England, if conquered, might seek compensation at the expense of her neighbors. Vergennes pointed out, however, that, as the kings of France and Spain did not wish to go to war themselves, they would do well to act with great prudence, persuade the English ministers that their intentions were pacific, and at the same time keep up the courage of the Americans by secret favors and vague hopes. It would be well, he thought, even to give the insurgents secret aid, in the shape of military stores and money; but it would not comport with the dignity of the king to treat with them openly until the liberty of America should have acquired consistency. Meanwhile, the effective force of the allied monarchies should be raised to the height of their real power.[3]

[1] The debates on the treaties are in Almon's *Parliamentary Register*, iii. 341; v. 174; Force's *Amer. Archives*, iii. 961–1020; vi. 88, 107, 271. Chatham's speech here quoted is in *Select Speeches*, v. 383. For other criticisms of the policy of the ministers, see Bancroft, ix. 313; Mahon, vi. 130; Lecky, iii. 459; Ryerson, ii. ch. 33. As late as Nov. 15, 1782, Lord Shelburne was looking about for additional German mercenaries to be used in Europe. (Schlieffen, 163.) [During the war 29,867 German mercenaries came over, and an average of about 20,000 were kept in the field, and 17,313 returned to Europe. They cost England £1,770,000, beside pay and maintenance. The approximate number killed in action was 548; wounded, 1,652; and missing, 127, — a total of 2,327. The total killed or died of wounds was about 1,200; died of disease, 6,354; and 5,000 deserted, which total, 12,554, accounts for all who did not go back to Germany. Congress sought to induce desertion by promising lands (*Journals*, i. 442, 456). A German address to invite deserters was authorized to be scattered in April, 1778 (*Secret Journal*, i. 70), and in August steps were taken to form a corps of such deserters (*Journals*, iii. 43). Cf. *Mag. of Amer. Hist.*, iii. 49. — Ed.]

[2] See a curious story in the *Life of John Jay*, by his son William Jay, New York, 1833, vol. i. p. 39, about a mysterious Frenchman who gave assurances of aid from France to a committee of Congress about Nov., 1775. This stranger was evidently Bonvouloir. See Doniol, vol. i., *passim*. [For later efforts to approach Congress in Feb., 1776, see Bancroft, viii. ch. 61; De Witt's *Jefferson and Amer. Diplomacy;* Force, 4th ser., vi.; 5th ser., i., ii., iii.; Doniol (i. ch. 5, 8, and "Annexes," pp. 153, 287) traces the beginning of the French interest in America in the mission of M. de Bonvouloir in 1775–76. — Ed.]

[3] A copy of this paper is among the *Sparks MSS.*, no. lxxiii. p. 11, in the library of Harvard University. A translation is in Bancroft, viii. 331.

The minute of Vergennes was submitted to Turgot for his opinion. On the 6th of April he handed in a long paper.[1] He maintained that the most desirable result of the disturbances in America would be the subjugation of the colonies by England; because so long as they were kept forcibly under the English yoke the Americans would be discontented, and a large part of the strength of England would be required to keep them in subjection. He pointed out that the loss of Canada had indeed been a gain to France, since the English colonies, delivered from the fear of Canadian interference, had ceased to depend on the protection of Great Britain; but he suggested that should those colonies become permanently disaffected, the possession of Canada might become valuable to France, that province being looked on by the English colonies as an ally against their mother country. Turgot recognized that a reconquest of Canada was out of the question for the present, but thought that future circumstances might make it possible. He did not believe that the English, if beaten by their colonists, could compensate themselves by an attack on the French and Spanish possessions in America. The revolted Americans, who would just have won a victory, would not allow their enemies to make themselves stronger in their neighborhood. On the other hand, Turgot held that the independence of the American colonists would cause a great revolution in commerce and politics the world over. All the countries of Europe having colonies in America would be obliged to assume a new attitude towards them. He foresaw in America a great agricultural country, maritime at first from necessity, and perhaps permanently from choice, practising free-trade and enforcing it on the world.

Turgot proceeds to point out with great frankness the weakness of France. The annual expenditure exceeds the revenue by twenty million livres. The army and navy are incredibly weak, and it will be necessary to strengthen them when the balance in the finances is reëstablished. War can be waged, if absolutely necessary, but it is not to be desired.

Under these circumstances Turgot desired to obtain all possible information from America; believing that if the colonists knew of how much use a number of retired French officers would be to them, such officers would be taken into the American service; and that their private letters would give all the information desirable, without compromising the ministry. Turgot would allow the insurgents to buy arms and ammunition in France, but would not go so far as to give them money, which would be a breach of neutrality, although he recognizes that money is what they most need.[2]

Nothing is more curious than the tone of these French ministers. Although France is at peace with England, Vergennes and Turgot alike assume an attitude of hostility. They do so simply, naturally, almost

[1] *Œuvres*, viii. 434; cf. Doniol, i. 280.

[2] He insinuates that they might indirectly be put in the way of receiving money.

without apology. Whatever is worse for their rival is better for them. The colonists are to be helped and encouraged, not from any love for themselves, which would be absurd, but only in so far as they may injure the mother-country.[1]

The same feeling of hostility toward England governed the actions of the court of Spain. Grimaldi, the minister of foreign affairs, proposed to share with France the expense of sending money secretly to the insurgents. That astute old courtier, Aranda, who represented his Catholic Majesty at Versailles, was interested on the same side. The removal of Turgot and Malesherbes from the French ministry soon after the above minutes were sent to the king, diminished the weight of the party of prudence. The king had no will of his own. The whole system of Maurepas was to drift. The more energetic counsels of Vergennes prevailed, and in May, 1776, the French court informed the king of Spain that it had resolved secretly to advance a million livres to the insurgents, acting under the cover of a commercial house.[2] King Charles III, after a little hesitation, entered into the scheme, and with many precautions against discovery, remitted to Paris a like sum, to be used in the same way.

SILAS DEANE.*

The Americans, meanwhile, were looking about for help. On the 29th of November, 1775, a committee of five members was appointed by the Congress in Philadelphia for the purpose of corresponding with "friends in Great Britain, Ireland, and other parts of the world." Early in 1776, the committee determined to have an agent in France. Silas Deane was selected for this purpose. He was born in Connecticut, from which colony he had been a delegate to the first Congress. He must have been between thirty-five and forty years old in 1776, having graduated at Yale College in 1758, and he appears to have been a man of some wealth and of consideration in his native colony. It may seem ominous that this first diplomat sent by the United States of America was ignorant of the French

[1] This hostility, dating at least from the Hundred Years' War, had been aggravated by the treaty of 1763, and especially by the humiliating conditions of the Treaty of Aix-la-Chapelle, by which an English commissioner was allowed to live at Dunkirk, and, under pretext of seeing that no fortifications were erected, insist that no stone should be turned near the harbor without his leave.

[2] Flassan, vi. 143.

* [From Du Simitière's *Thirteen Portraits* (London, 1783). It was reëngraved in the *European Mag.* (iv. 165) the same year. Cf. also *Heads of illustrious Americans* (London, 1783). Cf. Lossing's *Field-Book*, i. 85; *Mem. Hist. Hartford County*, ii. 444. — Ed.]

language. Deane's instructions are dated March 3, 1776.[1] He was to proceed to France in the character of a merchant, and to seek an audience with the Comte de Vergennes. He was to inform that minister that he had been dispatched by the authority of Congress to apply to some European power for a supply of arms and ammunition; that France had been pitched on for the first application, "from an opinion," said the instructions, "that if we should, as there is great appearance we shall, come to a total separation from Great Britain, France would be looked upon as the power whose friendship it would be fittest for us to cultivate." [2] Deane was to apply for clothing and arms for twenty-five thousand men, with a suitable quantity of ammunition and a hundred fieldpieces. Congress promised to pay for these things as soon as the navigation of the Americans could be protected by themselves or their friends. Deane was, moreover, to say that great quantities of linens and woollens, with other articles for the Indian trade, were also wanted; that he was actually purchasing them, and asked no credit; and that the whole, if France should grant the other supplies, would make a cargo which it might be well to secure by a convoy of two or three ships of war. If Deane should find the minister inclined to speak freely, and disposed to favor the colonies, he was to endeavor to ascertain whether, if the latter should form themselves into an independent state, France would probably acknowledge them as such, receive their ambassadors, and enter into any treaty or alliance with them, for commerce or defence, or both; and if so, on what principal conditions.

There was in Paris, at this time, one Pierre Auguste Caron, now well known in literary history under the name of Beaumarchais. The son of an intelligent and respectable watchmaker, he had begun life by inventing an escapement; next, on account of his fine voice and agreeable manners, had become reader and singer to the daughters of Louis XV; and had thus been admitted, in a very subordinate capacity, to one of the highest circles of the court. Beaumarchais had next done a favor to a financier, who had advised him in speculations which had made his fortune; he had bought an office which conferred nobility — "his own, for he had the receipt;" and he had made a noise in the world with his quarrels, lawsuits, pamphlets, and plays. Two of these last still hold the stage in their original form, and the genius of one of the greatest of composers has made his "Figaro" immortal. Bold, clever, fond of speculation, Beaumarchais was just the man for the purposes of Vergennes. He had already been employed in the more hidden paths of diplomacy, and had shown himself quick-witted and adventurous. In June, 1776, he was still under sentence of the Parlement of Paris, which had deprived him of his civil rights for

[1] Sparks's *Diplomatic Correspondence*, vol. i. p. 5; Pitkin's *U. S.*, App. 23, and his first letter in App. 24.

[2] This expression is interesting as showing how far a committee of Congress was ready to go, four months before the Declaration. The instructions are signed by B. Franklin, Benj. Harrison, John Dickinson, Robert Morris, and John Jay. Sparks's *Diplomatic Correspondence*, i. 7.

attempting to bribe a judge; but the affair, in which Beaumarchais had manifested both spirit and eloquence, had done him good rather than harm in public opinion.

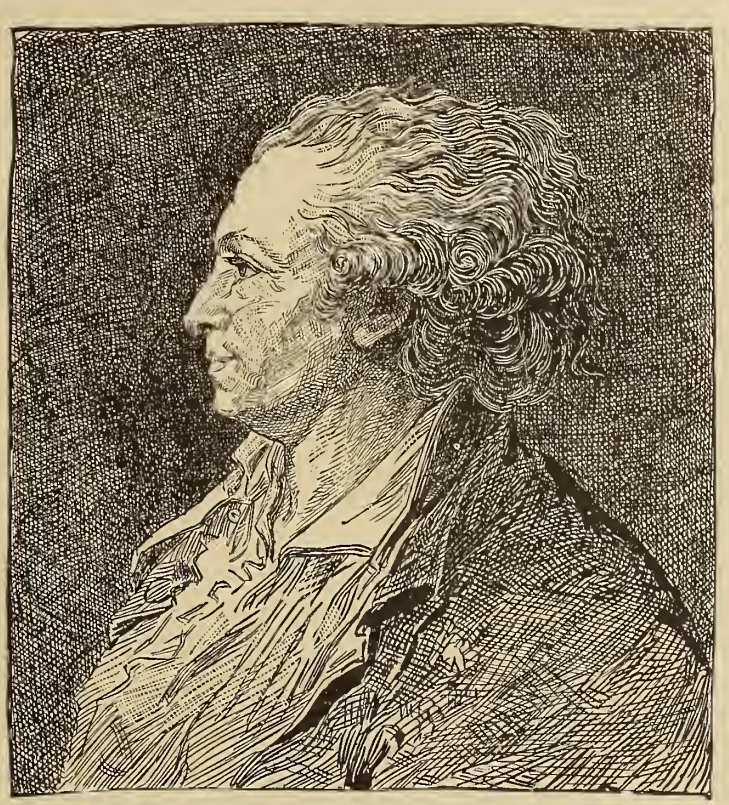
As early as September, 1775, we find Beaumarchais hurrying off secretly from London to Paris, and laying before Louis XVI a highly colored account of the situation in America and in England. According to him, thirty-eight thousand armed and determined men are besieging Boston; forty thousand more defend the rest of the country. They are all sailors, fishermen, or stevedores; so that not one pair of hands is taken away from agriculture and manufactures. But all this is less fatal to England than the civil war which is soon to break out in that country. Heads are to fall in the course of the winter. Both Lord Rochford and John Wilkes have told him so. Meanwhile, the French ambassador sees nothing, and ought to be superseded.

Having sent in this report, Beaumarchais returned to England, whence he kept up a correspondence with the Comte de Vergennes. On the 29th of February, 1776, he sent a second paper to the king, which seems to have been to some extent the foundation of the minute of Vergennes above cited. In his paper, Beaumarchais gives an account of a conversation with Arthur Lee, in which the latter is made to send something not unlike an ultimatum to King Louis. "For the last time," Lee is quoted as saying, "has France absolutely decided to refuse us all succor, and to become the victim of England and the laughing-stock of Europe by this incredible apathy. . . . We offer to France, as the price of her secret help, a secret treaty of commerce, which will turn over to her for a certain number of years after the peace all the benefits with which, for a century, we have enriched England; beside a guarantee of her possessions according to our strength. . . . Go to France, sir; explain the state of affairs. I shall shut myself up in the country until your return, so as not to be forced to give an answer" (to Lord Shelburne and others who wish for a reconciliation) "before having received one from you." Lee, a Virginian long resident in England, was ready enough to threaten and to assume a high tone. He may have used some such language as that ascribed to him by Beaumarchais. Lee was at this time entirely without authority from Congress to negotiate with anybody, but the Committee of Correspondence of that body had made him its agent to collect information as to the disposition of foreign powers toward the colonists.

The ministers of Louis XVI were not inclined to enter into a treaty, however secret, with the yet unborn republic of the United States. They were willing, however, as we have seen, to do something for the insurgent colonists of Britain. Beaumarchais received, on the 10th of June, 1776, a million livres from the French government. On the 11th of August he received the Spanish million. On the 12th of June, Beaumarchais wrote to Arthur Lee as follows: "The difficulties which I have found in my negotiations with the ministry have induced me to adopt the plan of forming a

company, which will immediately send help to your friend in the shape of powder and ammunition, in exchange for tobacco, to be delivered at Cap Français."[1] It was as much, perhaps, from a love of the picturesque as in order to conceal the participation of the French government, that Beaumarchais chose to conduct his commercial operations under the name of *Roderigue Hortalez et Compagnie.*

Silas Deane arrived in Paris early in June, 1776. He was admitted to an interview with the Comte de Vergennes a few days after his arrival,



BEAUMARCHAIS.*

conversing with him through the interpretation of a secretary of the French foreign office, who spoke English well. The Count was encouraging. He questioned Deane freely on American affairs, refused to commit himself on the question of independence, and said that, in view of the good understanding between the two courts of Versailles and London, the French

[1] The old name of Cape Haytien. There is reason to suppose that at this time Vergennes expected to employ other agents besides Beaumarchais (Loménie's *Beaumarchais et son Temps*, ii. 117 *n.*; Flassan, vi. 143, 169; Sparks's *Dip. Corres.*, i. 22).

* [After a print in Bettelheim's *Beaumarchais*, 1886. Cf. *Penna. Mag. of History*, April, 1881, vol. xi. p. 7. — Ed.]

could not openly encourage the shipping of warlike stores, but that no obstruction would be raised. He took Deane under his personal protection, warned him that the English ambassador knew of his arrival and that he must beware of spies, and approved of the trick by which the envoy had come through Bermuda and passed himself off as a merchant of that island.[1]

Deane had brought letters to a physician named Dubourg, a friend of Dr. Franklin; and this man was not without hopes of entering into the contracts with Congress on his own account. Dubourg warned Deane that Beaumarchais, "though confessedly a man of abilities, had always been a man of pleasure, and not of business." At the same time the doctor wrote to Vergennes that the dramatist would not find credit with the merchants and manufacturers. Dubourg would seem at this time to have been ignorant of the subvention given to Beaumarchais. He accused the latter also of being a loose liver; but all his remonstrances were of no effect. Dubourg was mercilessly laughed at by Beaumarchais, to whom Vergennes had shown his letter, and who pointed out that the women whom he was accused of keeping at his house were his two sisters and his niece. Deane was told by Vergennes to rely on whatever Beaumarchais should engage in the way of supplies.[2] The envoy was much elated. He looked for the speedy approach of a general European war, in which, while England was busy in America, Spain should take possession of Portugal, and Prussia and France should subdue and incorporate into their dominions "Hanover and the other little mercenary electorates which lie between them, and which for several centuries have been one principal cause of every war that has happened in Europe."[3]

The affair of the moment, however, was the contract with Beaumarchais. Deane was not deceived by the character in which the Frenchman appeared. "Everything he says, writes, or does," says the envoy in his letter to the Committee of Correspondence, on the 15th of August, 1776, "is in reality the action of the ministry; for that a man should but a few months since confine himself from his creditors, and now, on this occasion, be able to advance half a million, is so extraordinary that it ceases to be a mystery."[4] Between Deane and Beaumarchais, however, the semblance of a commercial correspondence was maintained. Beaumarchais left to Congress the option of paying for the goods what they might be worth on their arrival in America, or their cost in France with insurance and commissions. Deane promised payment within a year, by means of tobacco, already engaged, he said,

[1] [Deane is charged with having encouraged, during the early months of his Paris residence, one James Aitken to set on fire the Portsmouth dockyard in England, in Dec., 1776. Cf. Howell's *State Trials*, xx. 1365; Sabin, viii. 31,832–31,841; Mahon, vi. 142; P. O. Hutchinson, ii. 141–143. Cf. Walpole's *Last Journals*, ii. 100. The man was known as John the Painter, and published a *Short Account of the Motives which determined the man called John the Painter, and a Justification of his Conduct* (London, 1777). — Ed.]

[2] Sparks's *Dip. Corres.*, i. 18, 28.

[3] *Ibid.* p. 20.

[4] Deane, however, in his narrative, says that it was not hinted to him until many months later that Beaumarchais had received money from the court of France (*Papers in the case of Silas Deane*, p. 29).

by Congress. He held out hopes that a considerable quantity of the commodity might arrive in six months. The American might, in his own mind, recognize that the Frenchman was an agent; he was bound, both publicly and between themselves, to treat him as a principal. Beaumarchais, meanwhile, was allowed to buy of the state the arms and ammunition he wanted.[1] Two hundred pieces of brass cannon were taken, instead of one hundred, lest some of them should be intercepted on their way to the insurgents. Roderigue Hortalez et Compagnie established themselves in a large house in the Faubourg du Temple. But the versatile head of the firm had more than one name at his service. We find him at Havre under that of Durand, in December, 1776, transacting the business of Hortalez, and superintending the rehearsal of the comedies of Beaumarchais. Three vessels, containing the first consignment of clothing and stores, got off early in 1777, in spite of many obstacles. Five more vessels followed, all but one of which reached America. But quarrels began to arise between the American envoys and Hortalez. Arthur Lee[2] had come from London. He and Deane were presently at daggers drawn: Deane maintaining that payment should be made to Beaumarchais according to contract; Lee affirming that the contract was fictitious, that Vergennes had repeatedly assured him so, and that nothing ought to be paid for. Beaumarchais, meanwhile, was dispatching arms and clothing, accompanied by letters containing incorrect invoices, advice to choose a dictator, protestations of enthusiasm, orders for tobacco, information about salt fish, and offers of service, and closing with such paragraphs as the following: "Gentlemen, pray consider my house the head of all operations in Europe useful to your cause, and my person the most zealous partisan of your nation, the soul of your success, and the man most deeply penetrated with the respectful esteem with which I have the honor to be, &c., *Roderigue Hortalez et Cie.*"[3]

The Committee of Congress did not even reply to these letters. They knew Hortalez to be a fictitious personage, and believed him to be dealing with capital furnished by the French government. The firm did indeed receive another million livres in 1777.[4] Beaumarchais, however, had embarked much money of his own, besides ventures for others. He was dealing with individuals in America, and with States, as well as with Congress. From the last he had received, up to the summer of 1778, but three hundred thousand francs, and that only after a contention with the commissioners. In spite of the small returns from America, his operations grew under his hands. As war broke out he armed his ships.[5] He also dispatched an

[1] Beaumarchais paid for brass cannon forty sous per pound, for cast-iron ninety francs per thousand pounds, and for muskets twenty-three francs apiece (Loménie's *Beaumarchais*, ii. 133 *n.*)

[2] Cf. Sparks on Lee's character, in his *Franklin*, viii. 60 *n.*

[3] This letter is given in Sparks's *Dip. Corres.*, i. 35–39. The ending in the form here given is translated from the French of Loménie's *Beaumarchais*, ii. 144.

[4] Loménie's *Beaumarchais*, ii. 145, says 1,074,496 livres. Whether that sum was ever returned to the French treasury does not appear. Other persons were interested with Beaumarchais (Bettelheim, p. 392; Loménie, ii. 144 *n.*, 153).

[5] Beaumarchais' little navy in December, 1778.

agent to America. Meanwhile, Deane was recalled, and confronted by Congress with the letters of Arthur Lee. Deane stuck to his point, however, and maintained that there was a contract, and that Congress was liable to Beaumarchais. The latter's agent in Philadelphia declared that his principal would send no more goods, unless the old debts were acknowledged and an explicit contract made for the future. The amount in dispute at this time was about five million livres. In their perplexity, Congress ordered the new contract to be signed, but to be sent to Paris for ratification by the American commissioners, who were first to get the opinion of the Comte de Vergennes upon the real indebtedness of the United States.[1] That minister informed the commissioners that the king had furnished nothing, and had only allowed Beaumarchais to take stores from his arsenals on condition of their being replaced; but that he would see that Congress was not pressed for payment for the military articles. As to the new contract, Vergennes declined to take any responsibility. On receiving the answer of Vergennes, Congress, on the 15th of January, 1779, sent a polite letter to Beaumarchais, promising to take prompt measures to satisfy his claim.[2] These measures, however, did not take the shape of money nor of tobacco, but of bills of exchange drawn on Dr. Franklin, at three years' sight. It took nine months, moreover, to prepare them; for, in spite of the assurances of Vergennes, neither Congress nor Franklin could be persuaded that the supplies had been sold, and not given.[3]

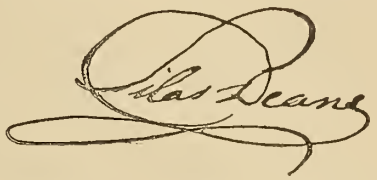
had at its head a three-decker of sixty guns, carrying no cargo, called "Le fier Roderigue." This ship was pressed into the French service by the Comte d'Estaing, at the naval battle of Grenada, on the 12th of July, 1779, and her captain was killed. The ten merchantmen which she was convoying were dispersed, and most of them taken by the English. Beaumarchais afterwards received from the French government two million francs for his losses in this expedition (Loménie's *Beaumarchais*, ii. 167 *n.*; Bettelheim, p. 418).

[1] *Journal of Congress*, April 7, 1778. Congress was fairly puzzled, and not unnaturally so, as to its relation to Hortalez and to Gardoqui. See the letter of the Committee of Foreign Affairs to A. Lee, May 14, 1778, Sparks's *Dipl. Corresp.*, ii. 159.

[2] *Journal of Congress*, Jan. 15, 1779. See also June 5 and 18, 1779.

[3] In 1781, Silas Deane came back to France to settle the accounts which he had left open. He recognized that the United States owed Beaumarchais 3,600,000 livres. In 1784 the consul of the United States in Paris went over the accounts and cut down the amount. On the 25th of February, 1783, the French government, on the occasion of a new loan to the United States, recapitulated not only the sums already lent, but those given by the king of France to the United States during the war (*Treaties and Conventions*, Washington, 1871, p. 258, *Ex. Doc. no. 36, 41st Cong., 3d Sess., Senate*). Among these sums was included one of a million livres, given on the 10th of June, 1776. This was recognized by Franklin as having been given to Beaumarchais, and the government of the United States thereupon claimed the right to set it off against the latter's claim. Vergennes, however, when appealed to, refused to give up Beaumarchais' receipt. The amount had probably been inserted in the document of 1783 by inadvertence, without considering its effect on Beaumarchais' claim, which the French government was inclined to favor. The matter was submitted in 1787 to Arthur Lee, Beaumarchais' personal enemy, who found that the Frenchman owed Congress 1,800,000 francs; and to Alexander Hamilton in 1793, who found that the United States owed Beaumarchais 2,280,000 francs, but that no payment should be made until the question of the set-off of a million francs was settled (Loménie, ii. 193. I cannot find this report by Hamilton). On the application of Gouverneur Morris, then minister to France, a copy of the receipt of Beaumarchais for this amount, dated June 10, 1776, was given up. In this receipt Beaumarchais promised to account for one million (livres) with the Comte de Vergennes. Congress might well have considered that this re-

Silas Deane appears to have managed the pecuniary affairs of his post with reasonable discretion. He was never able to show proper accounts or vouchers, but his powers were more or less indefinite, and his affairs complicated. It is no justification, but perhaps an excuse, for Deane that a general vagueness overhung the public finance of his time. Neither the Congress nor the king of France could have told the amount of their debts in 1777 with any great accuracy. Deane has been repeatedly accused of dishonesty, but of that crime I can find no evidence.[1] In obtaining and forwarding stores he was energetic and efficient. In another class of matters he showed a deplorable want of wisdom. Congress had voted in secret session, on the 2d of December, 1775, that the Committee of Correspondence should endeavor to engage not more than four skilful engineers. No reference to this vote is found in Deane's letter of instructions, but it is probable that he had



ceipt concerned only the relations between the contractor and his own government, and in no wise concerned the United States. From this time until his death, in 1799, Beaumarchais was clamorous for a settlement of his accounts. From 1799 to 1835, his family, supported in their claim by the French government, which repeatedly denied that the million francs of the 10th of June, 1776, could properly be deducted, sought in vain for payment. The claim was the subject of not less than three Presidents' messages and thirteen reports to Congress, between 1778 and 1828. Finally, nearly sixty years after the liability had been incurred, the United States government paid $160,000 to the heirs of Beaumarchais.

[The letters of Francy, Beaumarchais's agent in Philadelphia, 1777–80, are given in copies in the *Sparks MSS.*, no. lxxvi. Cf. John Bigelow's *Beaumarchais the Merchant*, an address before the N. Y. Hist. Society in 1870 (*Hours at Home*, xi. 160); also Force's *Amer. Archives*, 5th series, vol. i.; *Dip. Corres.*, i. and xii.; Pitkin's *U. S.*, i. ch. 10; Parton's *Franklin*, ii. 167, 203; *Mag. of Amer. History*, Nov., 1878; introd. to George Sumner's *Fourth of July Oration in Boston*, 1859; Dr. Charles J. Stillé's *Beaumarchais and the Lost Million*, in the *Penna. Mag. of History*, April, 1887, and separately: beside references in *Poole's Index*, p. 105. To Beaumarchais is attributed *Le Vœu de toutes les nations et l'intérêt de toutes les puissances dans l'abaissement de la Grande Bretagne* (1778), dedicated to Franklin. — Ed.]

[1] Concerning Deane's character, see in *Men and Times of the Revolution, or personal memoirs of Elkanah Watson*, giving the opinion of Col. John Trumbull. [For Deane's family connections and life, see *N. E. Hist. and Geneal. Reg.*, Oct., 1849, vol. iii. 382; C. J. Hoadly in *Penna. Mag. of Hist.*, i. 96; Parton's *Franklin*, ii. 189, 353; *Mag. of Amer. Hist.*, July, 1884, p. 17; and references in *Poole's Index*, p. 337; bibliography in Sabin, v. p. 285; his correspondence in *Conn. Hist. Soc. Coll.*, ii. 129; *Penna. Mag. of Hist.*, July, 1887, p. 199; *Dipl. Corresp.*, i.; Force's *Amer. Archives*, 5th ser., ii., and copies in the *Sparks MSS.*, no. lii.; and for the troubles which grew out of his service in Europe, *The Papers in relation to the Case of Silas Deane*, Philad., 1855, and *Life of A. Lee.* An indignant letter to Hancock in 1778, relative to the attitude of Congress towards him, is in the *N. E. Hist. and Geneal. Reg.*, 1863, p. 55. The MSS. of his memorials to Congress, 1778–1779, are noted in the *Brinley Catal.*, no. 2,138. The Report of the Committee of Congress on the matter between Deane and Lee is in the *Sparks MSS.*, no. xlix. Deane's address to the people of the United States was first printed in the *Philadelphia Gazette*, Dec., 1778; and Thomas Paine answered it in the *Philadelphia Packet*, Jan. 2, 1779. The *Political Mag.*, iii. 261, published what is called an intercepted letter, dated Paris, May 14, 1781, hinting at civil war; and the Tory New York printer, Rivington, the same year published *Paris Papers, or Mr. Silas Deane's late intercepted letters* (*Sparks Catal.*, no. 739). The *Secret Journals of Congress*, iii. 64, give two letters. In his vindication, Deane printed *An address to the free and independent citizens of the United States* (Hartford, London, New London, 1784). His wrongs are further portrayed in a *Memorial to Congress* by his heirs in 1835, and the claim was finally adjusted in 1842, when the heirs received a large sum. Cf., on Deane's character, Jay's *Life of Jay;* Bancroft's *United States*, viii. 318; and Doniol's *Participation de la France*, etc., i. ch. 14. — Ed.]

been verbally instructed to engage the four engineers.[1] On his first arrival in Paris he was met by the applications of a number of officers who wished to serve in America. The importunity of such officers increased as time went on. Deane yielded altogether too much to their solicitations. "If it be politic," he wrote, "to interest this kingdom in the present contest, what way so effectual as to get into their debt for supplies, and employ persons of good family and connexions in it in our service?"[2] He asked for instructions, but correspondence was slow, and the officers were eager. He appears to have begun by giving encouragement, and ended by giving promises. The persons sent were mostly soldiers of fortune, seeking employment in America for the sake of pay and glory. The larger number of them were ignorant of the country and of its language.[3] Du Coudray, the first whom Deane engaged, obliged one of Beaumarchais's ships to turn back at a critical moment, because he was not satisfied with his own quarters, and thus endangered the enterprise of sending stores. He made much trouble in America by his claim to command the artillery, but was fortunately drowned in the Schuylkill before working great injury to the cause.[4] The machinations of Conway, another of Deane's officers, added to the difficulties that surrounded Washington at Valley Forge. Deborre quarrelled with Congress after the battle of the Brandywine, and threw up his commission.[5] Congress was soon obliged to decline to recognize the validity of Deane's agreements, for the native officers refused to see foreigners, without great claims, promoted over their heads. Yet the number of foreign generals was, throughout the war, disproportionate to the merits of the class. No single foreigner in the army of the United States, with the sole exception of Pulaski, had ever held *bona fide* rank above that of lieutenant-colonel in Europe. Several French officers did good service in subordinate capacities in America, and Kalb and Steuben might be reckoned exceptions to the general uselessness; but it was Steuben that moved Washington to write in a moment of irritation: "In a word, although I think the Baron an excellent officer, I do most devoutly wish, that we had not a single foreigner among us, except the Marquis de Lafayette, who acts upon very different principles from those which govern the rest."[6]

[1] The engineers were actually engaged by a contract of 13th Feb., 1777, signed by Franklin and Deane. They were Du Portail, De Laumoy, and De Gouvion, to whom Radière was afterwards added (Sparks's *Dipl. Corresp.*, i. 265).

[2] Sparks's *Dipl. Corresp.*, i. 27.

[3] On the importunities of such officers, see Franklin to James Lovell, in *Franklin's Works*, viii. 228; and another letter from the same to the same, in *J. Adams's Works*, ix. 468; also the *Mémoires de Montbarey*, ii. 261, and Deane's letters.

[4] Du Coudray was supposed by some people to have committed suicide. (Mercy Warren, i. 398. See also *Papers in the case of Silas Deane*, 33.) [A Report on the advances to sixteen French officers who came over with De Coudray is in the *Journals of Congress*, Aug. 5 and 13 and Sept. 2, 1777. The journals show various acts of legislation in 1777. Hamilton's letter of May 6, 1777, on the embarrassments of the case, is in his *Works*, ed. Lodge, vii. 491. Cf. Greene's *Historical View of the Amer. Rev.*, 283; Lecky, iv. 54, 55; *Mag. of Amer. Hist.*, iii. 364. — ED.]

[5] Concerning Deborre, see Sparks's *Washington*, v. 463; *Dipl. Corresp.*, iii. 114. Deborre's MS. journal was sold by a bookseller in Paris in 1883 or 1884.

[6] Sparks's *Washington*, vi. 15. See the biographies of Kalb and Von Steuben by Friedrich

Among the various officers who flocked to America with Deane's commissions, it is probable that some were spies of the French government, or were especially sent to forward the schemes of persons in France. Thus Kalb, as it now appears, was sent as an emissary of the Comte de Broglie. It had occurred to that nobleman that he might make himself the William of Orange of the young republic, and Kalb was empowered to treat with the Americans and arrange particulars. On arriving in America, however, Kalb had the sense to see that the scheme was chimerical, and to abandon it.[1] He became a hard-working servant of the United States, but his voluminous correspondence was noticed in the army, and it is not unfair to imagine that the man who had twice come to America on secret missions[2] may have had some undeclared motive to the end of his days.[3]

It was not single adventurers only whose services were offered to Deane. The dealers in human flesh came forward with their wares, and their proposals were listened to. "I have been offered troops from Germany on the following general terms," writes Deane to the committee on the 28th of November, 1776, "viz.; — officers to recruit as for the service of France, and embark for St. Domingo from Dunkirk, and by altering their route land in the American States. The same has been proposed with Switzerland, to which I could give no encouragement, but submit it to your consideration in Congress, whether, if you can establish a credit as I have before hinted, it would not be well to purchase at Leghorn five or six stout frigates, which might at once transport some companies of Swiss, and a quantity of stores,

[continued on p. 40.]

Kapp; also *Journals of Congress*, Sept. 8, 1777. [A long letter from Steuben, giving a statement of the inducements held out to his coming to America, is in the collection of papers belonging to J. H. Osborne, of Auburn, N. Y. Various letters accrediting him on his coming over are in the *Sparks MSS.*, xlix. vol. ii. De Kalb's letter, setting forth the conditions of his joining the army, dated Bethlehem, Sept. 18, 1777, is in J. G. Rosengarten's *German Soldier in the wars of the United States*, Philad., 1886, p. 25. For the agreement, Dec. 6, 1776, with De Kalb and Lafayette, see *Dipl. Corresp.*, i. 291; Sparks's *Washington*, v., App.; E. M. Stone's *French Allies*, p. 39; *Collection de manuscrits relatifs à l'histoire de la Nouvelle France* (Quebec, 1882), iv. 336, 337. — Ed.]

[1] [Cf. *Mass. Hist. Soc. Proc.*, 1883, p. 344.—Ed.]

[2] [Copies of De Kalb's letters on his mission in 1768, from originals in the Dépôt de la Guerre, are in the *Sparks MSS.*, xxxii. vol. i. Cf. Doniol, i. ch. 18; ii. ch. 2. — Ed.]

[3] See Henry Lee's *Memoirs of the War in the Southern department of the United States*, Appendix D. Concerning the plan to put the Comte de Broglie at the head of American affairs, see the *Life of John Kalb*, by Friedrich Kapp. There is some reason to suspect that the person intended was the Maréchal Broglie, brother to the count (Almon's *Remembrancer*, vii. 375). The idea may have originated with the French government, and been suggested by Beaumarchais to Arthur Lee. See Arthur Lee to Governor Colden, London, Feb. 13, 1776, in Sparks's *Dipl. Corresp.*, ii. 9. A little book by the Vicomte de Colleville, *Les Missions secrètes du Général Major Baron de Kalb et son role dans la guerre de l'indépendance américaine* (Paris, 1885), is written by an author who has had access to some of the papers belonging to a descendant of Kalb. These papers had already been used by F. Kapp, with whose book De Colleville does not appear to be acquainted. The latter thinks that Lafayette is the person in whose behalf the plots were made. Charles François, Cte. de Broglie, born 1719, died 1781, was for many years one of Louis XV's principal agents in his secret diplomacy. See *Le Secret du Roi, par le Duc de Broglie*, Paris, 1878.

The Baron de Kalb
mar Gl

Votre Tres humble ami et Serviteur
Pulaski

PULASKI'S AUTOGRAPH AND SEAL.*

I Do Steuben Major General and Inspector General
do acknowledge the UNITED STATES of AMERICA, to be Free, Independent and Sovereign States, and declare that the people thereof owe no allegiance or obedience to George the Third, King of Great-Britain; and I renounce, refuse and abjure any allegiance or obedience to him; and I do Swear that I will to the utmoft of my power, fupport, maintain and defend the faid United States, againft the faid King George the Third, his heirs and fucceffors and his or their abettors, affiftants and adherents, and will ferve the faid United States in the office of Inspector General which I now hold, with fidelity, according to the beft of my fkill and underftanding.

de Steuben

Sworn before me at Camp Valley Forge May 5th 1778
G. Washington

STEUBEN'S OATH.†

* [From Johnson's *Traditions and Reminiscences of the Amer. Revolution* (Charleston, 1851). There is a portrait of Pulaski, engraved by H. B. Hall, in C. C. Jones's *Georgia*, vol. ii. — ED.]

† [Fac-simile from the original, belonging to John C. Ropes, Esq., of Boston, who received it from the late Rev. William B. Sprague, D. D., of Albany. A similar oath is printed in Kapp's *Johann Kalb*, as also taken by that officer before Washington.

There was a copperplate engraving of Steuben published in 1783, from which a fac-simile is given in Dr. E. O. Hopp's *Bundesstaat und Bundeskrieg in Nord-Amerika*, Berlin, 1886, p. 233. — ED.]

[NOTE ON PORTRAITS OF FRANKLIN. — While not attempting to make a complete list of Franklin portraits, painted or engraved (see list in *Penna. Mag. of Hist.*, July, 1887, p. 173), some of those interesting as distinctive likenesses or as early engravings may be named. The earliest of adult years is one painted at London when he was twenty years old, which now hangs in Memorial Hall, Cambridge, Mass. It is engraved in Sparks, vol. i., in the *Memorial Hist. of Boston*, ii. 277, and (head only) in Parton (vol. i.); also in Scharf and Westcott's *Philadelphia*, i. 220. Of the likenesses later in life Mr. Chas. Francis Adams says: "Most of the portraits of Franklin came from France, and have ease and polish, but do not show positive, fixed character" (*Mass. Hist. Soc. Proc.*, x. 412; cf., on those painted in Paris, E. E. Hale's *Franklin in France*, p. 150), like

BENJAMIN FRANKLIN.
(From the *Impartial History of the War*, London.)

that painted in England by Gainsborough, and belonging to the Marquis of Lansdowne. The two English portraits best known are those by M. Chamberlin and David Martin. That by Chamberlin (cf. Sparks's *Franklin*, viii. 118), as copied by Leslie, hangs in Memorial Hall; and, engraved by J. C. Turner, it appeared in Bancroft's *United States* (large paper ed.), 1861, vol. iv.; by E. Fisher, it appeared in mezzotint in London; and it is the basis of the engraving herewith given as from the London edition of the *Impartial History of the War*. The well-known Martin picture, representing him reading, with spectacles and with thumb on chin, was painted in London, and is now at Airdrie House, Scotland (*Mass. Hist. Soc. Proc.*, xv. 11). A copy made by the artist for Franklin was sent to his family, and belonged in 1871 to the late H. J. Williams of Philadelphia. It is engraved in Delaplaine's *Repository* (1815); in the *Analectic Magazine*, June, 1878; in Sanderson's *Signers*, vol. ii.; and by Welch in Sparks's *Franklin*, vol. ii. A likeness, perhaps by Copley, given by Franklin to

Governor Pownall, belongs to the Rev. C. C. Beaty-Pownall, of Bedfordshire (*Mass. Hist. Soc. Proc.*, xiv. 160; R. C. Winthrop's *Speeches*, 1878–1886, p. 429). One by Lodge, published in London, April 21, 1777, is in Almon's *Remembrancer*, 1778. There are other early engravings in the *Political Mag.*, Oct., 1780; in the *European Mag.*, March, 1783, engraved by W. Angus from a picture owned by Dr. F. Schwediauer; in Murray's *Impartial Hist. of the War*, 1778, vol. i. 48; by Norman in the Boston edition of the *Impartial Hist. of the War*, 1781; in the *Boston Magazine*, 1784; in the *Mass. Magazine*, 1790; in the *Geschichte der Kriege in und ausser Europa*, Nürnberg, 1778; in Andrews' *Hist. of the War* (given herewith). Cf. the picture representing him at a table, holding a copy of *Poor Richard's Almanac*, reproduced in the *Mag. of Amer. Hist.*, Jan., 1887. Mr. Winthrop mentions portraits in the Royal Society, Burlington House, and in the National Portrait Gallery, London. A supposed portrait on panel is noted in the *Catal. of the Cabinet of the Mass. Hist. Soc.*, no. 49. (Cf. *Proceedings*, xi. 150.)

BENJAMIN FRANKLIN.

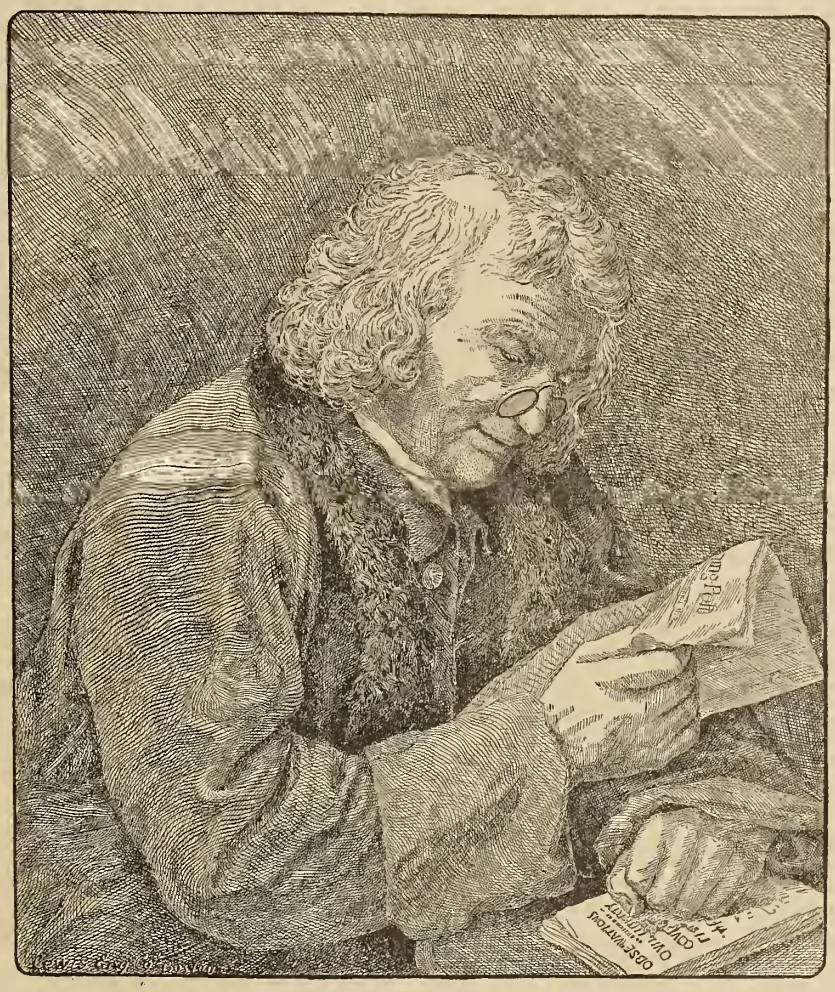
(From Andrews' *History of the War*, London, 1785, vol. ii.)

The leading French portraits are by Duplessis and Greuze. An oil likeness by Duplessis (cf. engraving in Sparks, iii.) was bought in Paris by Edward Brooks, and given to the Boston Public Library. A pastel portrait by Duplessis, painted in 1783, was procured in Paris of a descendant of Le Veillard, who owned the MS. of the autobiography, and is engraved in Bigelow's *Franklin*. Cf. Bartlett and Woodward's *United States* (1886), ii. 20.

There are several likenesses by Greuze. One painted for Oswald, who negotiated the provisional treaty with Franklin in 1782, was bought by Gardner Brewer, of Boston, and given to the Boston Public Library in 1872 (Justin Winsor in *Boston Pub. Library, Twentieth Report*, p. 86; W. W. Greenough in *Mass. Hist. Soc. Proc.*, Nov., 1883, p. 359). President Jefferson owned a picture supposed to be by Greuze, and to have been painted for the Abbé Verri, which descended to Jos. Coolidge, and was by him bequeathed to the Boston Athenæum, and is now in the Boston Museum of Fine Arts. The late James Lawrence, of Boston, owned a crayon by Greuze, which he bought out of the San Donato collection of pictures in Paris in 1869. A supposed Greuze, given by Franklin to the traveller Denon, was for sale in London in 1875 (*Mass. Hist. Soc. Proc.*, xiv. 161). In the Amer. Acad. of Arts and Sciences is a copy, by Ordway, of Healy's copy of the picture in the Louvre (*The Crayon*, 1858, p. 330). Houdon's bust is engraved in Sparks, vol. iv. An engraving from a bust

modelled in Paris from life is given in the *Hist. of the British Empire*, 1765–1783, "by a Society of Gentlemen," Philad., 1798, in two vols.

The well-known picture representing Franklin in a fur cap, with spectacles, when he was seventy-one, painted in Paris in 1777, by C. N. Cochin, is engraved in Parton, vol. ii., and in Duyckinck's *Cyclop. of Amer. Lit.* Cf. Hilliard d'Auberteuil's *Essais* (vol. i. 44; ii. 60). An engraving showing a cap trimmed with fur is marked, "Desrayes del. Le Beau scul., à Paris, chez Esnauts et Rapilly." Vanloo's picture, engraved by H. B. Hall, is in the Centennial edition of Charles Carroll's *Journal to Canada*. It was originally engraved by Alix, a French engraver, and resembles a picture by Charles Peale in the gallery of the Penna. Hist. Society,



FRANKLIN THE POLITICIAN.

which may have been copied from Alix's print. It is repeated in Hale's *Franklin in France*, where are two other early pictures, namely: a drawing in profile, seated at a table, ship seen through a window, by Louis C. de Carmontelle, published in Paris; and the engraving by Chapman. A print, called "The Politician [Dr. Benjamin Franklin]," engraved by T. Rider after a painting by S. Elmer, was published in London, and reissued July 1, 1824, by Z. Sweet, 28 Chauncy Lane; from a copy of this last, owned by Dr. Charles Deane, the annexed cut is taken.

The medals are enumerated in the *Amer. Journal of Numismatics*, vii. 49; ix. 4, 25, 29; *Coin and Stamp Collector's Journal*, iii. no. 4. Upon the terra-cotta medallion made by Jean Baptiste Nini during Franklin's stay in Paris, see Hale's *Franklin in France*, p. 140. — Ed.]

and the whole to be defended by the Swiss soldiers on their passage? Or, if you prefer Germans, which I really do not, the vessels might go from Dunkirk."[1] A better tone is taken by the commissioners in their letter to Vergennes of the 5th of January, 1777: "As princes of Europe are lending or hiring their troops to Britain against America, it is apprehended that France may, if she thinks fit, afford our independent States the same kind of aid without giving England any first cause of complaint."[2]

Benjamin Franklin arrived in Paris on the 21st of December, 1776. His fame had preceded him, and the enthusiasm produced by his coming was very great. His portrait, painted, engraved, on porcelain, appeared in the shops with Turgot's inscription: —

"Eripuit cœlo fulmen, sceptrumque tyrannis."

The learned men of Paris hastened to lay their scientific and philanthropic plans before the philosopher; the courtiers, to sharpen their wits against those of Poor Richard; the ladies, to listen to the clever gallantries of a printer of seventy. The crowds of the great city opened to let him pass. His coat of brown cloth and his unpowdered hair seemed, among the laces, ribbons, and embroideries of the centre of fashion, to be models of republican simplicity. The queen appears to have partially shared in this enthusiasm. The king was disgusted by it, but had not the strength of will to make his personal judgment efficient in the government of France, nor even in the fashions in his own palace.[3] The doctor's presence had undoubtedly a considerable influence in producing that general state of excitement in Parisian society and among the younger members of the nobility, which, far more than the sober judgment of statesmen, brought France into the American alliance and the war with England.[4] The king, in his dull way, was for peace. It was one of his great wishes, if any wish of a creature so destitute of will can be called great, "to make the happiness of his people." Maurepas also wished for peace, and hoped to maintain it.[5] Vergennes persistently pushed the court to warlike measures. As early as August, 1776, when he had just received the news of the Ameri-

[1] Sparks's *Dipl. Corresp.*, i. 71. In 1780 Franklin writes to the president of Congress: "The German prince, who gave me a proposal some months since for furnishing troops to the Congress, has lately desired an answer. I gave no expectation that it was likely that you would agree to such a proposal; but, being pressed to send it to you, it went with some of my former letters" (*Franklin's Works*, viii. 490).

[2] Lee's *Lee*, i. 63.

[3] Franklin could read French when he came to France, but spoke it badly (*Works of John Adams*, iii. 132, 213). Lafayette says in his *Memoirs* (New York edition, p. 79): "The idea that the queen supported the war-party is not correct; her social tastes were rather of the Anglomania kind; her politics were completely Austrian, and the court of Vienna did not wish that France should have any pretext for refusing to fulfil the conditions of the treaty made with it, which were soon afterwards exacted; but the queen, like a true woman of the world, followed the impulse given by Paris, the commercial towns, and the public."

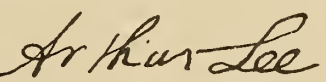
[4] [Cf. Lecky, iv. 51, on the striking effect of Franklin in Paris; and *Franklin in France*, by E. E. Hale and E. E. Hale, Jr. (Boston, 1887), *passim*; Parton's *Franklin*, ii. 203, 220; Mahon, v. 91; Doniol, ii. ch. 3 and 6. — Ed.]

[5] *La vie du général Dumouriez*, Hambourg, 1795, i. 384.

can Declaration of Independence, he assured the king that ruin hung over a state which incautiously trusted to the good faith of rivals, and disdained the opportunity to cripple its habitual enemy.[1] Meanwhile, the city and the court were talking, jesting, philosophizing. An order was passed to forbid speaking of American affairs in the cafés, and was disobeyed, as the authorities undoubtedly expected.[2]

Lord Stormont, the English ambassador at Versailles, was well aware of all that was going on. He complained of the sending of stores; of the sailing of officers; most of all, that American cruisers were allowed to make French ports the base of their operations against English commerce. Vergennes answered by declaring his unwillingness to interfere between the king of England and his subjects; by forbidding openly the ships of Beaumarchais to leave France, and by allowing them to slip off; by promising to exact bonds that the American privateers should sail directly from French ports to their own country, and then by letting them go free. Stormont was a proud, arrogant man, and sometimes assumed a high tone under these provocations. "If, sir," answered Vergennes on one occasion, "this is a declaration of war which you are making, allow me to go and announce it to the king." His lordship softened his manner, but the relations between the two courts were evidently strained.[3]

Arthur Lee joined the other commissioners in Paris in December, 1776. His suspicious temper made him a disagreeable colleague, and Franklin and Deane were probably glad enough to shift into his hands those negotiations which would keep him at a distance. Franklin had several conversations with the Count of Aranda, the Spanish ambassador at the court of Versailles. The Count was well disposed toward the American insurgents, but the king of Spain would not be moved to give them active assistance.[4] On the 1st of January, 1777, the Committee of Correspondence notified Franklin that he had been appointed by Congress their commissioner to negotiate a treaty of friendship and commerce with the Spanish court.[5] On the 7th of April the Doctor informed the Count that if his Catholic Majesty would join the United States in the war against Great Britain, the United States would help Spain to take Pensacola; provided that the use of that harbor and the navigation of the Mississippi should be free to the Americans. Congress



[1] Bancroft, ix. 64–69. Silas Deane did not receive a copy of the Declaration until the 7th of November (Sparks's *Dipl. Corresp.*, i. 67). The fact was known to Vergennes, and undoubtedly to Deane, at the end of August (Bancroft, ix. 66).

[2] *Métra*, iv. 56.

[3] Flassan, vol. vi. pp. 144–150. [Copies of Stormont's Correspondence with his government are in the *Sparks MSS.*, no. lxi. An engraving after a portrait of Stormont is reproduced in the *Mag. of Amer. Hist.*, July, 1887, p. 11. — Ed.]

[4] The Duc de Lévis in his *Souvenirs et portraits* has given a sketch of Aranda. The latter explained his general political system to the Comte de Ségur, who gives an amusing account of the interview in his *Mémoires*, vol. i. p. 276. [There is much of the diplomatic correspondence of Aranda in the *Sparks MSS.* — Ed.]

[5] *Secret Journals*, ii. 42. Lee was commissioned June 5, 1777; *Ibid.* ii. 46.

also proposed, in certain contingencies, to declare war against the king of Portugal, or to help France and Spain with six frigates and with provisions in an expedition against the British sugar islands. Lee, meanwhile, had started for Madrid to solicit an alliance. He was not at first allowed to proceed to the capital, but he stopped at Burgos by order of the Spanish government. The minister, Grimaldi, met him there and at Vitoria. Stores were promised: some of them to be sent directly from Spain; others to be called for by American ships, at New Orleans or the Havana. Lee was finally permitted to go to Madrid, and allowed to make contracts for stores with Spanish merchants.[1] The government, however, would not commit itself.

Soon after his return to Paris Arthur Lee set off for Prussia. His brother William had in fact been appointed commissioner to the court of Berlin,[2] but William's presence in Holland was considered important, and it is not improbable, as has been intimated, that Franklin and Deane were glad enough to get Arthur Lee out of Paris. He started about the middle of May, and to avoid the territories of the German princes who were under English influence, and engaged in letting out their troops to the king of England, passed through Munich, Vienna, and Dresden. Frederick the Great was at this time much incensed with the British government, but he was far too politic to risk a war for the sake of venting his annoyance. He would not see Lee, but the latter was received by Baron Schulenberg, his minister. Some talk there was of commerce; but nothing positive was accomplished. "I propose," wrote Frederick to Prince Henry at this time, "to procrastinate in these negotiations, and go over to the side on which Fortune shall declare herself."[3] An incident occurred, however, which, without affecting the result, gave occasion for a show of greater cordiality to Lee than he might otherwise have received. On the 26th of June, while he was at dinner, his bureau was broken open and some papers were stolen. It was proved that the British minister, Hugh Elliot, was in the hotel where Lee lodged, at the time of the theft, and it was said that the minister's servant had repeatedly told the servants of the hotel

[1] R. H. Lee positively asserts that Arthur Lee went to Madrid (*Life*, i. 84). His visit must have been a short one, between the middle of March and the beginning of May, 1777. Concerning the negotiations at this time with Spain, see Sparks's *Dip. Cor.*, ii. 36–54. The mercantile affairs were conducted principally with the house of Gardoqui & Co. See Sparks's *Dip. Correspondence*, ii., *passim*; Lee's *Lee*, and the *Lee MSS.*

[2] *Dip. Cor.*, ii. 289; Pitkin's *U. S.*, i. App. 25. [William Lee's commission was dated July 1, 1777 (*Secret Journals*, ii. 49), at the same time with Ralph Izard's as minister to Tuscany (*Dip. Corresp.*, ii. 367). Izard never reached Italy, but we find him in Paris siding with Lee (Sparks's *Franklin*, i. 451; viii. 250, 308, 388). One volume only of what was called his *Correspondence, 1774–1804, with a short memoir by his daughter, Mrs. Ann Izard Deas*, was published in New York in 1844. — Ed.]

[3] June 17, 1777. See, in *Œuvres Completes*, edition 1792, vol. iv. p. 290, a summary of Frederick's policy, by his own hand. Several extracts from letters between Frederick and his ministers at the courts of Paris and London are given in the *Sparks MSS.*, no. lxxvii. They are interesting as showing the indifference of the king to the fate of America. See also the third volume of Circourt's translation of *Bancroft*. The political correspondence of Frederick is in course of publication (Berlin, Duncker), but the time of the American war is not yet reached.

that his master would give two thousand ducats for the papers. A hue and cry was raised, and half an hour after their disappearance the papers were left at Lee's door. Lee was uncertain whether they had been read or not. Elliot acknowledged to the Prussian cabinet that he was responsible for the theft. He described the circumstances and made several bad excuses. The king of Prussia was very indignant. He thought that Elliot deserved to be forbidden the court; but in view of the minister's confession he did not take this extreme course.[1] Lee wrote to Frederick to complain of the robbery, and asked for a private interview, saying that it seemed probable that the person who had committed the crime could not be prosecuted by the common police. The king wrote in answer with his own hand. He would not himself see Lee; but he had ordered Baron Schulenberg to do so, and he assured Lee of the baron's secrecy.[2]

One chance the king of Prussia had to do the Americans a good turn, and he availed himself of it. In the autumn of 1777, the Margrave of Anspach was sending about three hundred recruits down the Rhine, on their way to join his regiments in America. Frederick stopped these recruits in their passage, and they were obliged to return to Hanau, whence they marched overland in February and March, 1778.[3] In the spring of that year, a regiment belonging to the Prince of Anhalt-Zerbst, on its way to America, was obliged to march round the Prussian dominions, and lost three hundred and thirty-four men by desertion. In the following summer, however, even this moderate bullying of little princes in favor of the Americans was abandoned. The troubles arising in consequence of the question of the Bavarian succession made it desirable for Frederick to conciliate England.

Arthur Lee's correspondence with Schulenberg was kept up after his return to Paris. The Prussian wrote repeatedly of the satisfaction of his master at news favorable to the Americans, and promised, in January, 1778, that his king would not hesitate to acknowledge the independence of the United States, whenever France, which was much more interested in the event of the contest, should set the example.[4] When however, a few weeks later, the treaty was signed between King Louis and the United States, Frederick showed no alacrity in imitating his brother monarch.

The news of Burgoyne's surrender, which reached France early in December, 1777, put an entirely new face on American affairs. Up to that time no foreign nation had been willing to commit itself on the American side. The stores sent by Beaumarchais, the million livres which had been advanced by the farmers-general, had been indirect aid, the rendering of which might be denied or explained away. But within a fort-

[1] Frederick to Matzlan, in *Sparks MSS.*, no. lxxvii. p. 26; and in the third volume of Circourt's translation of *Bancroft*, p. 211.

[2] See Elliot's account of the affair in J. Q. Adams's *Letters on Silesia*, p. 257. Cf. Lady Minto's *Hugh Elliot* (1868) and Carlyle's *Frederick*, vi. 557.

[3] The amusing letter which Frederick wrote to the Margrave on this occasion was discovered by F. Kapp among the archives of Anspach, and may be found in the appendix to his *Soldatenhandel*.

[4] Sparks's *Dip. Cor.*, ii. 126, 353.

night of the receipt of the news from Saratoga, the principal difficulties which had stood in the way of the treaty between the United States and France were removed, and a courier was dispatched to Spain to obtain the concurrence of King Charles III.[1] The Comte de Vergennes was in haste. He had in his pay the landlord of the house where Franklin and Deane lodged at Passy. This man reported that the commissioners were negotiating with England.[2] Thereupon, without waiting for the courier's return, Vergennes sent to inform the commissioners that the king of France had determined to acknowledge the independence of the United States, and to make a treaty of amity and commerce with them. The king expressed his intention of taking no advantage of the critical situation of the Americans, desiring that the treaty, when once made, should be durable, and that the amity should subsist forever. His Majesty did not pretend, however, to be acting from purely disinterested motives. He held that it was manifestly for the interest of France that the power of England should be diminished by the falling off of the American colonies. He would therefore require, as his only condition, that the Americans should not, in any peace which they might make with England, give up their independence, and return to their obedience to the government of that country. The French ministers did in fact negotiate in the spirit here declared.[3] Two treaties were signed on the 6th of February, 1778.

In the first, known as the *Treaty of Amity and Commerce*, it was provided that there should be a firm, inviolable, and universal peace, and a truce, and sincere friendship, between the Most Christian King and the United States of America; and that each power should treat the other not less well than "the most favored nation in all matters of commerce and navigation; and that each should protect the ships of the other in its ports, and should allow them to join its convoys at sea."[4]

[1] See communication of Vergennes to commissioners, 6th December, 1777, — two days after receiving news of Burgoyne's surrender. Circourt's translation of *Bancroft*, iii. 252; Doniol, ii. ch. 10.

[2] *Sparks MSS.*, no. lxxiii. p. 139; Vergennes to Montmorin.

[3] Doniol, ii. ch. 11. Circourt (iii. 251, etc.) gives the correspondence of Noailles, Maurepas, Vergennes, Gérard, Luzerne, Rayneval.

[4] The subjects of each party were to abstain from fishing in the waters belonging to the other party, and the United States agreed not to disturb the subjects of the king of France in their fishing on the Banks of Newfoundland. All the "indefinite and exclusive" French rights in the coasts of the island of that name and in the other islands were maintained. It was agreed that the *droit d'aubaine*, by which the king of France confiscated the goods of all foreigners dying within his dominions, should not be exercised against Americans. It was agreed that either ally might deal with the enemies of the other, and that free ships should make free goods, except in the case of contraband articles, which were defined to be arms, gunpowder, horses, and instruments of war, but not clothes, money, food, and ships' stores. The goods of the ally were, however, forfeited if captured on the ships of an enemy. The vessels of war and the privateers of either party might bring their prizes into the ports of the other; while the ships of the enemies of either party were not to be allowed, after making prizes, to enter a harbor of the other party, except under stress of weather. This article gave an immediate advantage to the American privateers cruising in European waters. No subject of either party was to take out letters of marque to act as a privateer against the subjects of the other party, on pain of being punished as a pirate; nor were any foreign privateers to be allowed to refit in the ports of either party, when commissioned against the other. The king of France agreed, moreover,

This treaty, which was generous in its provisions on the part of the king of France, was accompanied by another, signed on the same day, and much more interesting to the struggling republic. The preamble recites that the Most Christian King and the United States of America, having concluded a treaty of amity and commerce, "have thought it necessary to take into consideration the means of strengthening those engagements, and rendering them useful to the safety and tranquillity of the two parties; particularly in case Great Britain, in resentment of that connection and of the good correspondence which is the object of the said treaty, should break the peace with France, either by direct hostilities, or by hindering her commerce and navigation in a manner contrary to the rights of nations, and the peace subsisting between the two crowns." It was therefore agreed that if war should break out between France and Great Britain during the continuance of the war between the United States and that country, his Most Christian Majesty and the said United States should make it a common cause, and aid each other mutually with their good offices, their counsels, and their forces, as became good and faithful allies.

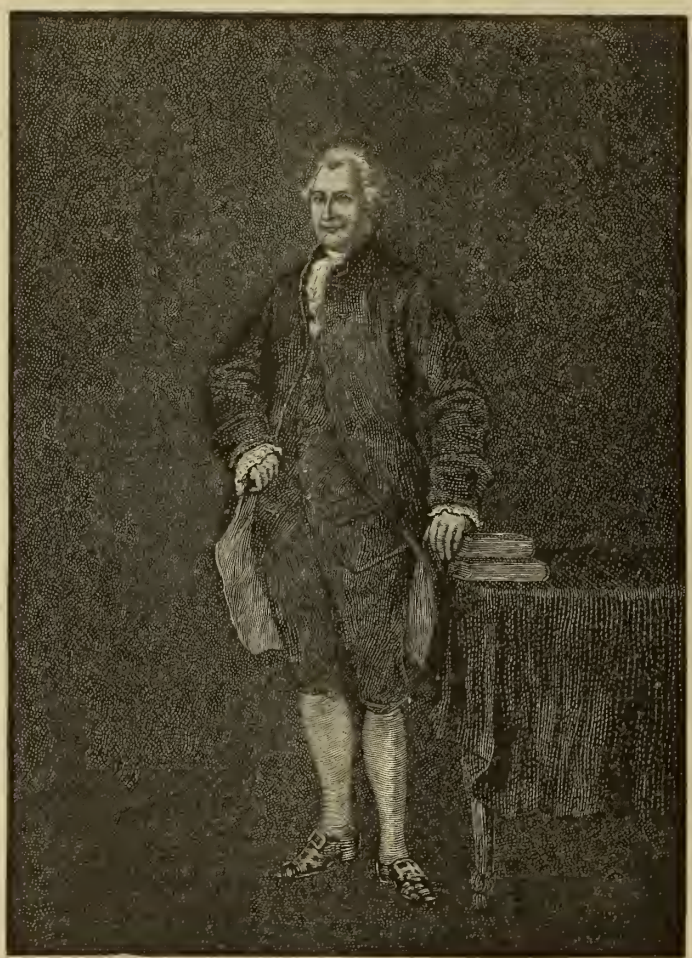
It was then declared that the essential and direct end of the projected alliance was "to maintain effectually the liberty, sovereignty, and independence, absolute and unlimited, of the United States, as well in matters of government as of commerce." And it was especially stipulated that neither of the two parties should conclude either truce or peace with Great Britain without the formal consent of the other first obtained; and they mutually engaged not to lay down their arms until the independence of the United States should have been formally or tacitly assured by the treaty or treaties which should terminate the war.[1]

The two treaties were executed on the part of France by Gérard, a secretary in the French foreign office, and on the part of the United States by Franklin, Deane, and Arthur Lee. They were written both in French

to grant to the subjects of the United States one or more free ports in Europe, beside continuing to them the freedom of such ports as were already open in his islands in America. Stipulations for the free exportation of molasses from those islands by the inhabitants of the United States, and for the free exportation of all merchandise from the United States to the islands which should furnish molasses, were at first included in the treaty. Arthur Lee objected, then consented, then objected again. The treaty was signed with these articles included. The Committee of Foreign Affairs of Congress, of which Lee's brother was a member, again remonstrated, and Vergennes published a declaration annulling the articles (Sparks's *Dip. Corres.*, i. 155, 394, 432; ii. 127, 171, 173, 200). This treaty is printed in Martens, 1st ed., ii. 685; 2d ed., ii. 587; *Treaties and Conventions of the U. S.*, 244; *Secret Journals*, ii. 59; also in *The Constitutions of the Independent States of America*, which appeared in Philadelphia, London, and Paris (in French) in 1783.

[1] The contracting powers agreed to help each other in any enterprise, when called on to do so, as far as circumstances would permit; and it was stipulated that if the United States should think fit to attempt the reduction of the British power remaining in the northern parts of North America or the islands of the Bermudas, those countries or islands, in case of success, should be confederated with or dependent upon the United States, the king of France forever renouncing the possession of them. On the other hand, all conquests in the West Indies were to belong to the king of France (Martens. 1st ed., ii. 701; 2d ed., ii. 605; *Treaties and Conventions*, 241; *Secret Journals*, ii. 82; and in the *Constitutions* above mentioned.)

and English, but French was declared to be the original language. The conclusion of these treaties was to be kept secret for a time. It was hoped that Spain would soon join in them; and Spain was known to have three reasons for not declaring herself immediately: her money fleet had not yet come home, her army and fleet from Brazil were in the same case, and her peace with Portugal was not quite concluded.[1] In spite of all precau-



GÉRARD.*

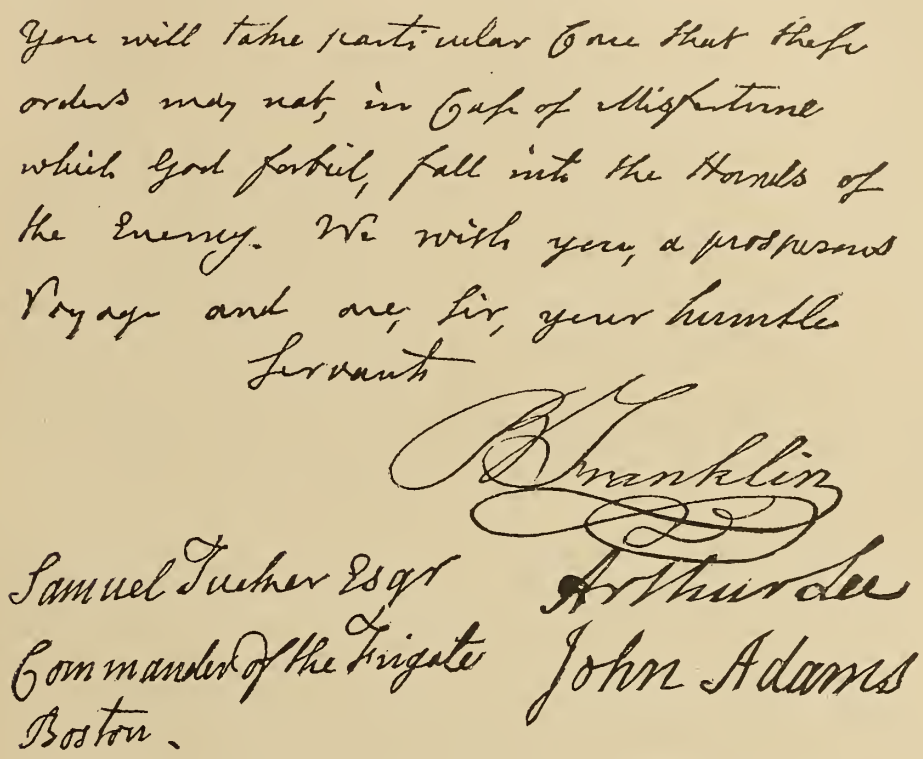
tions, however, the existence of the treaty of commerce was very soon known in England, a circumstance which made a new ground of quarrel between Silas Deane and Arthur Lee, each of whom accused the other of indiscretion, or something worse. Lee, indeed, accused Dr. Franklin also.[2] Silas Deane was recalled to America about this time, and sailed in the Comte d'Estaing's fleet, together with Gérard, who had been appointed

[1] Sparks's *Dip. Corres.*, i. 357.

[2] *Papers in the Case of Silas Deane*, p. 159.

* [From a picture in Independence Hall, Philadelphia. — Ed.]

minister to the United States.[1] John Adams was sent out in Deane's place.[2] He seems, in the main, to have taken Lee's side in his quarrel with Deane, and he wrote several letters expressing his belief that Lee was honest. Of this, indeed, there can be little doubt. It was Lee's judgment and temper that were in fault.[3] In October, 1778, Congress took the wise step of appointing Franklin sole minister to France. John Adams had had the


You will take particular Care that these orders may not, in Case of Misfortune which God forbid, fall into the Hands of the Enemy. We wish you a prosperous Voyage and are, Sir, your humble Servants

B Franklin

Arthur Lee

John Adams

Samuel Tucker Esqr Commander of the Frigate Boston.

THE COMMISSIONERS IN PARIS TO CAPTAIN TUCKER, April 13, 1778.*

[1] [His address to Congress and Laurens's reply are in the *Journals of Congress*, iii. 7, 8. Gérard's instructions (March 29, 1778) are in Circourt, iii. 255; Chevalier's *Marine Française*, p. 497. For Gérard's service, see *Dip. Corres.*, x. 235; *John Adams's Works*, i. 235; Hazard's *Penna. Reg.*, vii.; Introd. to Botta's History in the French translation; Lyman's *Diplomacy*, i. 57. For the action of Congress on the treaties, see its *Journals*, iii. 477, 485; its *Secret Journals*, i. 57–90; ii. 490. — Ed.]

[2] [He went in the frigate "Boston," Capt. Samuel Tucker. The log-book of the voyage is in Harvard College library. Cf. *John Adams's Works*, iii. 89, 94. — Ed.]

[3] [Lee seems to have drawn his friends and enemies fiercely apart. Samuel Adams kept a good opinion of him (Wells, iii. 120), and so did John Adams (*Works*, vii. 79, 96). Franklin had little occasion to like him (Sparks's *Franklin*, i. 447; viii. 57, 257, 444); Parton consequently views him somewhat violently (*Franklin*, ii. 12, 248, 363). Cf. E. E. Hale's *Franklin in France*, where Lee's character is sharply drawn. R. H. Lee's *Life of A. Lee* might serve for a better defence of him if it had been constructed with a bookmaker's art. There is much about Lee in the *Sparks MSS.* (no. xlix. vol. i.). The *Lee Papers* are described elsewhere. Cf. Sabin, x. p. 167; *Poole's Index*, p. 753; and for his genealogy, *N. E. Hist. and Geneal. Reg.*, January, 1872. — Ed.]

* [The concluding part of instructions, preserved in the Tucker Papers, given for a cruise at Tucker's discretion either at the entrance of the Baltic or on the Banks of Newfoundland. — Ed.]

disinterestedness to promote this arrangement. The credentials were sent out by Lafayette, who arrived in Paris on the 11th of February, 1779.[1]

Finding that the existence of the treaty was well known in England,[2] the French court determined to announce it openly. On the 13th of March, 1778, the Duc de Noailles, who had succeeded the Comte de Guines as French ambassador at the court of St. James, delivered a declaration to the English government. "The United States of North America," it said, "who are in full possession of independence, as pronounced by them on the 4th of July, 1776, having proposed to the king, to consolidate, by a formal convention, the connection begun to be established between the two nations, the respective plenipotentiaries have signed a treaty of friendship and commerce, destined to serve as a foundation for their mutual good correspondence." The declaration proceeded, rather ironically, to say that there was nothing exclusive in this treaty, and that the United States would still be at liberty to make agreements with other nations. The king of France was firmly persuaded that the court of London would take the announcement as a new proof of his constant and sincere disposition for peace; and that his Britannic Majesty, animated by the same sentiments, would equally avoid everything that might alter their good harmony; and that he would particularly take effectual measures to prevent interference with the commerce of French subjects with the United States, and to cause all usages of commercial nations and all treaties subsisting between the two crowns to be observed. In this just confidence, as the ambassador was pleased to say, he considered it superfluous to acquaint the British minister that the king his master, being determined to protect effectually the lawful commerce of his subjects, and to maintain the dignity of his flag, had taken eventual measures in concert with the United States of North America.[3]

[1] Sparks's *Dip. Corres.*, iii. 59, 81. [Cf. Parton's *Franklin*, ii. 388. Something of Adams's opinion of Franklin can be gathered from *John Adams's Works*, i. 319; ix. 486, 516, 619; E. E. Hale's *Franklin in France*, 229; *Adams-Warren Corres.*, p. 413. See, on the quarrels of the commissioners, *John Adams's Works*, iii. 123, 129, 130, 138, 139; ix. 477. — Ed.]

[2] [Fox had hinted that it would come, as early as Feb. 18, 1777 (P. O. Hutchinson's *Gov. Hutchinson*, ii. 137). — Ed.]

[3] Almon's *Parl. Reg.*, x. 47; Flassan, vi. 158. [That part of Bancroft (vol. x.) on the French alliance was translated by Count Adolphe de Circourt as *Histoire de l'alliance et de l'action Commune de la France et de l'Amérique pour l'indépendance des États-Unis* (Paris, 1876), in three vols. This translation had a large mass of original documents, furnished by Bancroft, and Circourt placed in his second volume his own *Conclusions historiques*. This portion is put into English in the *Mass. Hist. Soc. Proc.*, xv. 16, with a special note of introduction by the author. Cf. R. C. Winthrop's *Addresses*, etc., 1878, etc., p. 120.

See further, on the alliance, for American authorities, *Dip. Corres.*, i. 364; ii., iv. 250; Pitkin, ii. ch. 12; Marshall's *Washington*, iii. ch. 7; Sparks's *Franklin*, i. 430; Hale's *Franklin in France*, ch. 10: Pickering's letter to Pinckney (1797), — cf. Jay's address on the negotiations of 1782–83, p. 130; Parton's *Franklin*, ii. 303; Lyman's *Diplomacy of the U. S.*, i. ch. 2. For French authorities, Léon Chotteau's *Guerre de l'indépendance*, etc., and his *Les Français en Amérique avec une préface* par M. Édouard Laboulaye, 3me ed., Paris, 1882 (p. 121). For English views, Mahon, vi. App., p. xlii.; Lecky, iv. 41, etc., who considers that this intervention saved the cause of America. Jonathan Trumbull was dreading at the time that "the European alliances" would bring on "a security here which I fear is too general a calamity" (*Hist. Mag.*, ii. 7). On the effect of the alliance in America, see Sparks's *Washington*, v. 355; Parton's *Franklin*, ii. 317; *Corres. of*

The English government was not inclined to take these amiable observations in good part, and Lord Stormont was immediately recalled. No formal declaration of war was made; nor did actual hostilities begin until three months later, when two French frigates were attacked, and one of them taken, by the English fleet. In the month of July a naval battle was fought off the island of Ushant, but neither side obtained a victory.

FREDERICK, EARL OF CARLISLE.*

It was after the treaties between France and the United States had been signed, but before their existence had been announced to the English court, that Lord North, on the 17th of February, 1778, brought in proposals

John Laurens, p. 169; Greene's *Gen. Greene*, ii. 72; Wells's *S. Adams*, iii. ch. 47. Hutchinson in England (P. O. Hutchinson's *Gov. Hutchinson*, ii. 193) said, "America seems to be lost." — Ed.]

* [After Romney, as engraved in the *European Magazine*, November, 1785. — Ed.]

for conciliation, in the House of Commons. His tone was apologetic.[1] The coercive acts which he had made were such as appeared to be necessary at the time, though in fact they had produced effects which he never intended. . . . His idea never had been to draw any considerable revenue from America. He had found the colonies already taxed, and it had been his policy to have as little discussion on these subjects as possible, but to keep the affairs of America out of Parliament.[2] Accordingly, as he had not laid, so he did not think it advisable for him to repeal, the tea-tax, nor did he ever think of any particular means of enforcing it.[3]

In accordance with the new policy three acts of conciliation were passed.[4] They reached America about the middle of April, 1778. Finding that the Tories were relying on a great effect from them, Congress took the step of publishing them itself in the newspapers, with the report of a committee criticising them with much keenness. A resolution was added denouncing all who should attempt a separate treaty, and declaring that no conference should be held with any commissioners until the British armies were first withdrawn, or the independence of the United States acknowledged.[5] Shortly after this proclamation had been issued, the news of the treaties with France was received by Congress, and the treaties were ratified with great rejoicing.[6]

The English commissioners — the Earl of Carlisle, George Johnstone, and William Eden — reached Philadelphia, just as Sir Henry Clinton was evacuating the city, in June, 1778. Congress returned a brief answer to their address,[7] and refused to appoint a committee to confer with them. Thus the whole negotiation came to nothing. The English proposals were such as would gladly have been accepted three years before, but they were made too late.[8]

[1] [Walpole, *Last Journals*, v. ii. 200, describes the scene. Cf. P. O. Hutchinson's *Gov. Hutchinson*, ii. 185. — Ed.]

[2] [Burke, the previous year, in his *Letter to the Sheriffs of Bristol*, had asserted that this keeping the American question out of Parliament consisted mainly in stifling opposition to the ministry. *Works*, Boston ed., ii. 200. — Ed.]

[3] Almon's *Parl. Reg.*, viii. 379. One of the bills his lordship now proposed was to quiet America on the subject of taxation; to remove all fears, real or pretended, of Parliament's ever attempting to tax the Americans again; and to take away all exercise of the right itself in future, so far as regarded revenue. Another bill was to repeal all offensive acts passed since 1763. As for the penal laws taking away the charter of Massachusetts and prohibiting commerce and the fisheries, as they were the effect of the quarrel, they should cease. He would appoint commissioners and enable them to treat with Congress, as if it were a legal body, whose concessions would bind all America. The commissioners might also treat with any of the provincial assemblies, and with any individuals in their present civil capacities or military commands; with General Washington or any other officer. They might order a suspension of arms and grant pardons or rewards. They might restore to any of the colonies the form of their ancient constitutions as they stood before the troubles. They might treat with the colonies as with independent States, nor would Lord North insist on these colonies renouncing their claim to independence, until the treaty should receive its final ratification from the king and Parliament of Great Britain.

[4] 18 Geo. III, c. 11, 12, 13.

[5] Hildreth, iii. 245; *Journals of Congress*, Apr. 22, 1778.

[6] Hildreth, iii. 246; *Journals of Congress*, May 5, 1778.

[7] Pitkin, ii. 501; *Journals of Congress* (17th of June, 1778).

[8] [North's speech proposing the bills is in the *Parliamentary History* and *Gent. Mag.*, Feb., 1778. For the debates and views of them, see *Annual Register*, xxi. 133; Gibbon's letter of

In England, after the rupture with France, a section of the opposition, under the lead of Lord Rockingham, would have let America go free without a struggle, but all the members of the regular parliamentary minority were not of this mind.[1] On the 7th of April, 1778, Chatham, who had long been ill, appeared in the House of Lords. His speech faltered, his sentences were broken, his mind not master of itself. "His words were shreds of unconnected eloquence." He began by lamenting that his bodily infirmities had so long, and especially at so important a crisis, prevented his attendance on the duties of Parliament. He had made an effort almost beyond his strength in coming to that House, perhaps for the last time, to express the indignation he felt at the idea of giving up the sovereignty of America.[2]

Feb. 23; Walpole's *Last Journals*, ii. 200, 215; Russell's *Mem. and Corresp. of Fox*, i. 172; *Life and Times of Fox*, i. ch. 9 and 10; Fitzmaurice's *Shelburne*, iii. ch. 1; Donne's *George III. and North*, ii. 135; *Rockingham and his Contemp.*, ii. 346; Rogers's *Protests of the lords*, ii. 174, 178.

The American commissioners in Paris reported on the bills. *Diplom. Corresp.*, i. 369; iii. 34; *John Adams's Works*, vii. 72; Pitkin's *United States*, ii. App. 2. Papers with a plan of pacification were sent clandestinely to Franklin, purporting to come from one Weissenstein, which he believed to emanate from the British government, and he sent them to Vergennes, and they are now in the French archives. Copies of them are in the *Sparks MSS.*, no. xlix. i. 12. Franklin's reply is in *Dipl. Corres.*, iii. 45; *Franklin's Works*, viii. 278. Cf. further in Parton's *Franklin*, ii. 321; Sparks's *Franklin*, i. ch. 10 and 11; *John Adams's Works*, iii. 178, 220; E. E. Hale's *Franklin in France*, 239.

The British commissioners were Carlisle, Johnstone, and Eden. Their instructions are in the *N. Y. Col. Docs.*, viii. 738. For their manifesto, etc., see Almon's *Remembrancer*, 1778, p. 11, 127; and other papers are in *Ibid.* vols. vi., vii., and viii. A letter of the Rev. Andrew Burnaby to Washington, April, 1778, which Sparks supposes was intended to prepare the way for the commissioners, is in Sparks's *Corresp. of the Rev.*, ii. 100. As to the attempts to circulate the bills in the States, see *Ibid.* ii. 114. The report in Congress on the bills was drawn by Gouverneur Morris (Almon's *Remembrancer*, viii. 40). For effect and opinions in America, see *Journals of Congress*, ii. 580, 591; Wells's *S. Adams*, iii. 14, 46; lives of Washington, by Marshall, iv. ch. 1 and 10; by Sparks, v. 344, 397, 401; vi. 16, 79, 96; by Irving, iii. ch. 32; Reed's *Jos. Reed*, ch. 18 and App. 4; Sparks's *G. Morris*, i. ch. 11; Pitkin's *United States*, ii. ch. 11; Ramsay's *Am. Rev.*, i. 384; Bancroft, x. 122; Howison's *Virginia*, ii. 230; Jones's *N. Y. during the Rev.*, i. 663; Jonathan Trumbull in *Hist. Mag.*, ii. 8; and a letter showing how the commissioners had little opportunity to learn the sentiment of the country, in *Mass. Hist. Soc. Proc.*, xvi. 159.

On the British side see Carlisle's letters in Jesse's *Selwyn and his Contemp.*, iii. 280, 339; Donne's *George III. and Lord North*, ii. 208; Massey, ii. 295; Mahon, vi. 246. That a part of the refugees in England had no confidence in the movement, appears from *Curwen's Journal.*

Johnstone was charged with an attempt to bribe Jos. Reed (*Journals of Cong.*, iii. 13; Sargent's *Stansbury and Odell*, 165), and defended his conduct in Parliament, when Reed published *Remarks on Gov. Johnstone's speech, with a collection of all the letters and authentic papers* (Phila., 1779; Sabin, xvi. 68,570). Eden became Lord Auckland, and the Auckland papers are in the University library, Cambridge, England. Some of Eden's letters, June and July, 1778, are in Lady Minto's *Hugh Elliot*, p. 173. John Temple was sent as a sort of by-agent of the commissioners (Jones's *N. Y. during the Rev.*, i. 85–87).

The occasion produced various tracts. William Pulteney, in his *Thoughts on the present state of affairs* (London, 1778, five eds.), thought reconciliation still possible (Sabin, xvi. 66,646, etc.; Stevens, *Hist. Coll.*, i. no. 684). Another tract urging a return to allegiance was *Letter to the people of America* (Sabin, x. 40,506). Cf. *Considerations on a treaty of peace with America* (London, 1778; Hartford, 1778), etc. — ED.]

[1] Almon's *Parl. Reg.*, vol. ix. 319.

[2] [The feeling which he sought to combat was growing strong; the pamphleteers (1777) were abetting it. An officer returned from the service in America had expressed it in a *Letter to the English Nation.* Another writer urged the foolishness of the further attempts at conquest in *Considerations addressed to all persons of property in Great Britain.* A *Letter to the Earl of Chatham* appeals directly to him. The author of *Essays commercial and political* enforces like views. Sabin, iv. 15,936; vi. 22,980; x. 40,467. Walpole (*Last Journals*, ii. 327) mentions the effect of two pamphlets near the close of 1778, one privately printed by Sir William Meredith,

"My Lords," continued he, "I rejoice that the grave has not closed upon me; that I am still alive to lift up my voice against the dismemberment of this ancient and most noble monarchy! . . . My Lords, his Majesty succeeded to an empire as great in extent as its reputation was unsullied. Shall we tarnish the lustre of this nation by an ignominious surrender of its rights and fairest possessions? . . . Shall a people that seventeen years ago was the terror of the world, now stoop so low as to tell its ancient inveterate enemy, Take all we have, only give us peace? It is impossible!"

WILLIAM EDEN.*

. . . "In God's name, if it is absolutely necessary to declare either for peace or war, and the former cannot be preserved with honor, why is not the latter commenced without hesitation? I am not, I confess, well informed of the resources of this kingdom; but I trust it has still sufficient to maintain its just rights, though I know them not. But, my Lords, any state is better than despair. Let us at least make one effort; and if we must fall, let us fall like men!" [1] He sat down exhausted. The Duke of Richmond answered him in a long speech, in which, while praising the achievements of Chatham (whose name, he said, would ever be dear to Englishmen), he maintained that England could not fight single-handed against France, Spain, and America. The Earl of Chatham rose to reply, but after two or three unsuccessful efforts to stand, he fell down in a swoon and was carried from the House.[2] He died four days later; but the spirit which had raised England to a high place among the nations survived him. It would, indeed, have been a sign of decay could she have yielded her best provinces at the bidding of her ancient foe, without a stroke to retain them.[3]

the other published by David Hartley, in which the ministry was severely arraigned.

As early as the very beginning of 1777, Burke and the Rockingham Whigs had planned a secession from Parliament, and had drafted appeals to the king and to the colonists, looking to a pacification under the crown; but the measure was not carried out (Burke's *Works*, vi. 149, etc.) — Ed.]

[1] Almon's *Parl. Reg.*, ix. 369.

[2] [P. O. Hutchinson's *Gov. Hutchinson*, ii. 198. — Ed.]

[3] A most interesting letter from Lord Camden to the Duke of Grafton, describing Lord Chatham's last speech and the scene in the House of Lords, is given in the appendix (p. xxiv.) to volume vi. of Mahon's *History of England*. The picture by Copley in the National Gallery

* [From the *European Magazine*, May, 1786. A portrait, full length, in a chair, by Dance, is engraved in the *Auckland Correspondence*, vol. i. (London, 1861). This correspondence was published by his son, "to modify the harsh judgments" of the Malmesbury and Rose Correspondence. — Ed.]

The hope that Spain would join France in the war against England, and enter into an alliance with the United States, proved, for the time at least, illusive. King Charles III was divided among many feelings,— hatred of England, hatred of rebellion, love of the family compact, jealousy at his secondary position in the family, desire to take Gibraltar, desire to preserve the balance of power in the New World. Count Florida Blanca, who had succeeded Grimaldi as prime minister, was incensed at the news that the king of France had concluded a treaty with the insurgent colonies. He

FLORIDA BLANCA.*

would gladly have seen himself the arbiter of America. He turned toward England, and told the British minister that his Catholic Majesty neither condemned nor justified the steps taken by France; but that as they had been entered upon without the least concert with him, he thought himself perfectly free from all engagements concerning them.[1] He then

is interesting from the portraits it contains. It was engraved by Bartolozzi, and a copy of the engraving was sent by Copley as a present to Harvard College (M. B. Amory's *Life of J. S. Copley*, Boston, 1884, p. 84). This copy has been lost. There is a copy of the print in the Gray collection belonging to the college.

[For the feeling in England subsequent to Chatham's death, and resulting from the concern felt because of the French alliance and the commercial distress of the hour, see references in Winsor's *Handbook*, p. 186. — Ed.]

[1] Quoted in Bancroft, x. 164, from a letter of Grantham to Weymouth, 19th Feb., 1778, and

* [From the *European Magazine*, vol. xviii. p. 403. — Ed.]

proposed to obtain a cessation of hostilities, and to enter on a course of mediation. Through the influence of the Bourbon family, the United States were to accept such boundaries that the valley of the St. Lawrence and the territory northwest of the Ohio were to remain in English hands. Spain, presumably, was to retain or obtain Florida and Louisiana, which would be understood to include everything west of the Alleghanies and south of the Ohio. The British government, however, answered, that while France supported the colonies in rebellion, no negotiation could be entered into. Florida Blanca then proposed to Vergennes a descent on the coast of England; meanwhile repeating to the English ambassador his offers of mediation, but with the threat that should the war be continued his master would be obliged to take a side.

The Count of Aranda, the Spanish ambassador at the court of Versailles, had been from the first full of zeal for the American cause. But Florida Blanca was jealous and irritable; he had succeeded to Aranda's place and influence in Spain, and was not inclined to be governed by his counsels. Fearing the power in America of the new republic, the Spanish prime minister would gladly have left England in possession, not only of Canada, the territory northwest of the Ohio, and the Maritime Provinces, but of the city of New York and other seaports. Throughout the year 1778, Florida Blanca was hesitating, and Vergennes was urging him on. It was not until the 12th of April, 1779, that the treaty was finally signed, by which Spain made common cause with France, and in consequence of which she made war on Great Britain, but by it[1] his Catholic Majesty did

24th March, 1778. Bancroft has treated of these negotiations very fully. See also Flassan, vi. 174.

[For the progress of diplomatic relations with Spain, see *Dip. Corresp.*, vii. and viii.; Madison's *Papers*, i. 64, 74, App.; his *Writings*, iv. 441; life by Rives, i. ch. 6 and 8; Pitkin, ii. ch. 13, 14, App. 8; lives of Jay, by Jay and Flanders; Bancroft, ix. ch. 17; x. ch. 8, 9; *Oration* in Boston, July 4, 1859, by Geo. Sumner; *Niles's Register*, 1822; E. E. Hale's *Franklin in France*, ch. 20 and 21. The complications of Spain and England are expressed in an *Exposé des motifs de la conduite de sa majesté tres-chrétienne* (Madrid, 1779), which Gibbon answered in a *Mémoire justicatif de la Cour de Londres* (not to be confounded with a tract of similar title by Sir James Marriott; see *Sparks Catal.* no. 2,457), which was in turn replied to in *Observations sur le mémoire, etc.* (Paris, 1780), which has been attributed to Beaumarchais. The *Sparks MSS.* contain much of the diplomatic correspondence: in no. xxiii., correspondence of Lord Grantham, English ambassador in Spain, 1776–1779, from the English State Paper Office. Letters from the Spanish government are frequently enclosed; and there are some letters from Louisiana. The letters of Pollock from New Orleans are in no. xli. In no. lxxiii. is the correspondence of the French and Spanish governments, 1776–1778; in no. xcii. the correspondence of Montmorin and Vergennes, 1778–1782; in nos. xcv. and xcvi. the correspondence of Grimaldi, Florida Blanca, and Aranda, 1776–1782, from Madrid and Simancas (1855–1856). Translations of parts are in no. cii. In no. cxvii. are letters of Miralles and Rendon from Charleston and Philadelphia, 1778–80; in no. c. are letters of Rendon and Miralles, 1778–1780; in no. ci. is an account of Spanish operations in Louisiana, 1781–1783. — Ed.]

[1] The treaty stipulated that a necessary part of the plan of the allies should be the invasion of the British dominions in Europe. It was agreed that the two powers should not listen to any proposition from the common enemy without communicating it to each other, and that neither should sign any treaties or conventions without the previous consent of the other. It was stated that France had demanded, on declaring war with England, that his Catholic Majesty should recognize the independence of the United States, in order to serve as an essential basis to the negotiations which might be established in the sequel. But as his Catholic Majesty had not yet

not become the ally of the Americans, although he was fighting against their enemy.

On the 16th of June, 1779, Spain declared war against England. During the summer a great fleet of thirty-one French ships of the line and twenty Spanish vessels assembled, and sailed up and down the English Channel. The English fleet retreated before them; but the combined fleets did not long keep the sea. There was no admiral over the whole, and before many weeks were past the squadrons of the two nations separated, and each returned to a home port, with much grumbling and discontent on either hand. Meanwhile, Austria and Russia were offering mediation. No year of the war was more barren of results than this one, whether in Europe or in America.

While Vergennes was endeavoring to bring Spain into the war, Gérard, the French minister at Philadelphia, was trying to prepare Congress to agree to the conditions required by his Catholic Majesty. He assured the members of the Committee of Foreign Affairs "that his king would not prolong the war for a single day to secure to the United States the possessions which they coveted." [1] He thought that they already had more territory than they could easily administer, and expressed a hope that there would never be more than thirteen States, unless Canada should one day be received as a fourteenth. In a formal interview with Congress on the 15th of February, 1779, he represented that the price put by Spain on her friendship was Pensacola and the exclusive navigation of the Mississippi; and if she failed to obtain these conditions, she might join England instead of the United States. The impression seems to have been current at this time

concluded any treaty with the United States, he reserved to himself the right of doing it in the sequel, and of agreeing then to everything which should relate to their independence. For the present he engaged to concert with France as to what might concern the United States.

The treaty enumerated the advantages sought by the allies. France desired the abolition of everything which might interfere with the fortification of Dunkirk; the expulsion of the English from the island, and the fishery of Newfoundland, which last was to be shared with Spain; the absolute freedom of the East India trade, and the liberty of fortifying factories in the East; the recovery of Senegal; the possession of the island of St. Domingo; and the abolition or entire execution of the commercial treaty of Utrecht made in 1713 between France and England.

The objects sought by Spain were the restitution of Gibraltar; the possession of the river and fort of Mobile; the acquisition of Pensacola, with all the coast of Florida along the Bahama Channel; the expulsion of the English from the Bay of Honduras; the revocation of the right accorded them of cutting dye-wood on the coasts of Campeachy, which right was to be given to the French; and the restitution of the island of Minorca.

The allied powers promised not to lay down their arms without having at least obtained Gibraltar for Spain and Dunkirk for France, or, in default of this article, any other object, at the option of Spain. The treaty was a secret one, and was not communicated to the Americans.

The fact that the United States and Spain were not allied had a practical result in 1781, when the English and German garrison of Pensacola surrendered to Don Bernardo de Galvez on condition of not serving against Spain or her allies until exchanged. The garrison was shipped to New York, and could immediately be used against the Americans.

This treaty is believed never to have been printed in English. An abstract of it is among the *Sparks MSS.*, no. xcii.; see also no. xxxii. This treaty is to be found in Spanish in *Del Cantillo Tratados de Paz*, etc., Madrid, 1843, p. 552. The relations of Spain to France in these movements are followed with documents by Doniol (i. ch. 9, 12; ii. ch. 4, 5, etc.). [Cf. Bigelow's *Franklin*, iii. 211; Bancroft, x. ch. 8. — Ed.]

[1] Circourt's translation of *Bancroft*, iii. 264.

that the accession of Spain to the side of the allies would bring about a speedy peace. Congress thought it necessary, therefore, to decide what terms it would accept. The boundaries to be claimed were promptly agreed upon.[1] Florida was to be left to Spain. The United States were to extend westward to the Mississippi River. The northern boundary was positively not to be south of the 45th degree of latitude, but a line from the southern end of Lake Nepissing to the headwaters of the Mississippi was to be contended for.[2] Every post and place within the United States, and every island, harbor, and roadstead belonging to them or any of them, was to be absolutely evacuated by the land and sea forces of his Britannic Majesty, and yielded to the powers of the States to which they respectively belonged. So far, everything was clear and smooth. But the question of the fisheries was one of more difficulty. From the 22d of March to the 29th of July resolutions were offered, amended, passed, and reconsidered. The matter ended in a virtual triumph for the French party. The right to the fisheries, even in the most limited form, was not to be made an absolute condition of peace.[3] Gérard had gone so far as to declare that if the king of France had to choose between the Spanish and the American alliance, his choice would not be in favor of the United States.

The French minister, acting under instructions, also urged Congress to agree, if necessary, to a tacit rather than a formal acknowledgment of independence on the part of the king of England. On this point, also, Congress gave way. They refused, it is true, to stipulate in terms that the independence of their country might be "tacitly assured," but preferred the more roundabout expression "that previous to any treaty or negotiation for peace, the liberty, sovereignty, and independence, absolute and unlimited, of these United States, as well in matters of government as of commerce, shall be assured on the part of Great Britain, agreeable to the treaty of alliance between his Most Christian Majesty and the United States." But as the eighth article of the treaty referred to required only that the independence of the United States should be "formally or tacitly assured," the tacit acknowledgment might be considered accepted.

Congress found time on the 15th of June to congratulate Louis XVI on the birth of a princess, and to ask for the portraits of himself and his "royal consort," and also for further supplies, an estimate of which they had ordered their minister to lay before him, and which they assured him should be vigorously used against the common enemy. They refused on the 17th to allow their negotiators to stipulate that the inhabitants of the United States should not trade with the East Indies, nor engage in the

[1] March 19, 1779. *Secret Journals of Cong.*, ii. 138.

[2] [Cf., on this, *John Adams's Works*, i. ch. 6; iii. pp. 186, 229, 259; vii. 119, 120, 139; ix. 476. — Ed.]

[3] It was agreed, however, that the faith of Congress be pledged to the several States that no treaty of commerce be made with Great Britain without an explicit stipulation on her part in favor of the right of Americans to fish (*Secret Journals*, ii. 206), and that the force of the Union should be employed to obtain redress in case of any disturbance of that right (*Ibid.* ii. 211).

slave-trade, if adequate compensation could be obtained. It was decided that the independence or cession to the United States of Nova Scotia and the Bermuda Islands was not to be sought for. A committee was appointed to nominate a minister to negotiate for peace, and instructions were determined upon.[1] It was not until the 27th of September that the choice of this minister was reached. On that day John Adams[2] was appointed

LUZERNE.*

[1] August 14, 1779. *Secret Journals*, ii. 224.

[2] [Adams arrived in Paris, Feb., 1780. Cf. *Secret Journals*, ii. 258; *Dipl. Corresp.*, iv. 241, 339; his letters in *Ibid.* v.; *John Adams's Works*, i. 277; iii. 91, 121; vii. 5; ix. 472; x. 408; *Familiar Letters*, 329, etc.; John T. Morse, Jr.'s *John Adams; Adams-Warren Correspondence*, 368, 377, 378, 400, 457, etc.; Bancroft, x. 442; Parton's *Franklin*, ii. 369, 394. Franklin said of Adams at this time, "I live on terms of civility

* [After a painting in the State-House at Philadelphia. — ED.]

to make a treaty of peace and a treaty of commerce with Great Britain, and John Jay was appointed minister to Spain. During the same month the Chevalier de Luzerne arrived in Philadelphia as the successor of Gérard. This diplomat, by the suavity of his manners, and by apparent compliance with the wishes of Congress, made himself acceptable during four years to the American government.[1]

In January, 1779, the Marquis de Lafayette returned from America to France. He had become deservedly popular among the Americans, whose cause he had served without self-seeking. It was a long-cherished dream with the Marquis to wrest Canada from the hands of the English. In the autumn of 1778 a plan for this purpose was drawn up by him in conjunction with a committee of Congress, and was reported to that body in secret session on the 22d of October.[2] The British dominions were to be attacked simultaneously at Detroit, Niagara, and St. Francis. A French fleet was to take Quebec. General Washington's opinion of the plan was asked, and on the 14th of November he wrote a very striking letter to the president of Congress. One objection to the scheme seemed to him insurmountable, and alarmed all his feelings for the true and permanent interests of his country. "This," he says, "is the introduction of a large body of French troops into Canada, and putting them in possession of the capital of that province, attached to them by all the ties of blood, habits, manners, religion, and former connection of government. I fear this would be too great a temptation to be resisted by any power actuated by the common maxims of national policy."[3] Washington apprehended that if France should occupy Canada, and together with Spain should surround the United States on the north, the west, and the south, and become superior to England at sea, she might not only keep that territory which should be in her possession, but might give the law to the United States. In his letter to Congress the general dwelt on the military hazards and difficulties of the enterprise; and, not without reluctance, Congress consented to abandon it.[4]

Lafayette went to Europe without any definite mission, but with a cordial letter of praise from Congress to King Louis XVI.[5] It was not in his ardent nature to be quiet and inactive. After a nominal banishment, spent in the house of his father-in-law, for the crime of leaving France without permission, the young Marquis found himself the favorite of the court and

with him, not of intimacy." Sparks made copies of letters from Adams's letter-books kept in Paris (*Sparks MSS.*, no. lii. vol. i.). — Ed.]

[1] [His credentials, May 31, 1779, were presented Nov. 17th (*Journals of Cong.*, ii. 393). His memorial to Congress respecting a plan of commerce is in the *Sparks MSS.*, no. xlix. i. 16. On his instructions, see Circourt, vol. iii. — Ed.]

[2] *Secret Journals*, ii. 111.

[3] *Washington*, vi. 107.

[4] Marshall's *Washington*, iii. 568–580, — a very good account; *Secret Journals*, ii. 110–117, 122–130. The letter announcing the final abandonment of the plan did not reach Lafayette until he was in France (Sparks's *Washington*, vi. 548). [Cf. also *Ibid.* v. 530; Lafayette's narrative in *Sparks MSS.*, no. xxxii.; his letter from Boston, Dec. 18, 1778, to the Canada Indians, among the Carleton papers, copied in *Ibid.* no. xiii.; a letter from the *Lincoln MSS.* in *Ibid.* no. xii. The latest examination of Lafayette's career and of his family is in Doniol, vol. i. — Ed.]

[5] *Secret Journals*, ii. 124.

the city. The queen, irreproachable in her moral conduct, was more ready to recognize the charms of young men than prudence in a scandalous court would have dictated. She saw Lafayette several times, and presented him, as a substantial mark of her favor, with a regiment of dragoons. Madame Campan long kept a copy of verses, in her Majesty's own handwriting,

* [From Andrews' *Hist. of the War* (London, 1785), vol. i. A rude engraved likeness by Norman is in the Boston edition of the *Impartial Hist. of the War in America* (1781), ii. 215. Cf. *Mass. Mag.*, August, 1790.

There is in the Capitol at Washington a full-length portrait of Lafayette by Ary Scheffer, presented by the artist in 1824, and a bust by David, given by him in 1828 (*Mass. Hist. Soc. Proc.*, xix. 55; R. C. Winthrop's *Addresses*, 1878, p. 287). There is an engraving of this portrait, which was made at the time it was painted. A portrait taken for Jefferson, when Lafayette came over here as a young officer, is in the Mass. Hist. Soc. gallery (*Catal.*, p. 17); in whose *Proceedings* (xx. 101) is a heliotype of a water-color drawing owned by a descendant of Lafayette in Turin, representing him, full-length, at the time of the Virginia campaign of 1781 (Winthrop's *Addresses*, 1878, etc., p. 409).

A full-length contemporary portrait, by Le Paon, of Lafayette standing before a horse held by a negro, and marked "Conclusion de la Campagne du 1781 en Virginie. To his Excellency General Washington this likeness of his friend, the Marquess de la Fayette, is humbly dedicated," is reproduced in Doniol's *Participation de la France à l'établissement des Etats-Unis d'Amerique*, vol. ii. The original engraving was by Noël le Mire. (Cf. Jules Hidou's *N. le Mire*, Paris, 1875.)

C. W. Peale painted and engraved a head of Lafayette, given in Lossing's *Home of Washington*, p. 166, the picture having been placed at Mount Vernon. One by L. Barre was engraved by B. le Clair. A portrait taken during his visit to the United States in 1784 is given in the *Mag. of Amer. Hist.*, Dec., 1878. A painting by C. C. Ingham, 1825, is owned by the N. Y. Hist. Society, which has been copied for the State Capitol at Albany. Cf. E. M. Stone's *French Allies* p. 516, and *Harper's Monthly*, lxiii. 325. — Ed.]

which had been applauded on the stage of the *Théâtre Français* because in them the audience had thought that it recognized the description of the Marquis. Indeed, the whole life of the young soldier at this time was a continual ovation. He employed his popularity for the advantage of America. At one time he planned an expedition against the towns on the western coast of England; at another, he proposed to hire four ships of the line from the king of Sweden. But a more important and more delicate matter soon began to absorb his attention. Up to the end of 1779 the advantages derived by the United States from the French alliance had not been so great as might have been anticipated. The news of the treaty between the United States and France had caused the English to evacuate Philadelphia in the summer of 1778; but the Americans had immediately afterwards been drawn, by the expectation of French assistance, into a disastrous attack on Newport, in which, as many of them believed, they had been left in the lurch by their allies.[1] In September and October, a similar attack upon Savannah had had no better result, although much valor had been displayed on that occasion.[2] Lafayette desired a more thorough coöperation between his old and his new country. The popular prejudices of Americans were opposed to this. It was not many years since the colonists had looked on Frenchmen as their natural enemies. It was Lafayette's wish to overcome these prejudices. He proposed to Vergennes to send an army to fight in America.[3] It may be doubted whether the Count himself desired very energetic action in that quarter. He wished to see the United States independent, but not too powerful. The abasement of England by the establishment of a balance of power in America, among Great Britain, Spain, and the United States, would have been sufficiently consonant with French interests. Vergennes acceded, however, to the main features of Lafayette's plan.

The Marquis considered the composition of the army that was to be sent a very important matter. The officers must be soldiers, not courtiers. It was in July, 1779, that Lafayette first proposed the expedition, and he hoped that the troops might leave France in time to take Newport by the autumn of the same year. Excursions were to be made to the southward during the winter, and the grand achievement was to be the reduction of Halifax in the summer of 1780.[4] Lafayette hoped to command the expedition himself. He expressed his entire willingness, however, to take a subordinate place. It was finally arranged that the Marquis should sail alone for America in March, 1780, with instructions to announce to Washington the speedy arrival of a corps of six thousand men. These soldiers were to be kept together under their own general, who was himself to be under Washington's orders.

[1] [See Vol. VI. ch. vii. note 3. — Ed.]

[2] [See Vol. VI. p. 470. — Ed.]

[3] [Sparks's *Washington*, vii. 477; J. C. Hamilton's *Republic*, etc., ii. 15. — Ed.]

[4] Lafayette's minute is given in his *Mémoires* (Bruxelles, 1838), i. 237–241.

Throughout the years 1778 and 1779 the British aggressions on neutral commerce had been rousing the indignation of the northern powers. Acting on their own interpretation of what was contraband of war, the English privateers had robbed Dutch, Danish, and Swedish ships, in violation of treaties and of the law of nations. The court of St. Petersburg was becoming more and more estranged from that of London. Sir James Harris, the English minister, tried influence and bribery in vain on the favorites of Catherine II. Count Panin told him, smiling, that, being accustomed to command at sea, the language of England on maritime objects was always too positive.[1] Russia, Denmark, Prussia, and the Netherlands remonstrated with the British government. Catherine was becoming much incensed, when an incident occurred that came near turning aside the current of her wrath. The Spaniards, fearing lest Gibraltar might be revictualled, took two Russian ships bound for the Mediterranean, and sent them in to Cadiz, where their cargoes were sold to the highest bidder. This gave the English minister an apparent advantage. Harris was able to report, on the authority of the favorite Potemkin, that orders were to be given to fit out fifteen ships of the line and five frigates, which, while they were to be supposed to protect Russian trade against all aggressors, were in fact meant to chastise the Spaniards, whose insolence and arbitrary conduct the Empress could not put up with.[2] At this juncture the Prussian minister at St. Petersburg reported the state of affairs to Frederick the Great. That monarch immediately sent off a messenger, as fast as horses could take him, to Paris. The Prussian minister at the court of Versailles was ordered to ask for an immediate audience, and to point out the importance of satisfying Russia without the slightest delay. Vergennes recognized the urgency of the crisis; he sent off a courier post-haste to Madrid. Florida Blanca saw that the Prussian advice was good, and determined to follow it; but before a messenger could ride from Petersburg to Madrid and return, Catherine II had been brought to larger views. Count Panin had persuaded her that by assuming the position of the impartial defender of neutral rights she might greatly increase her influence in Europe, and yet inspire no jealousy.[3] On the 28th of February (10th of March), 1780, she issued a "Declaration to the Courts of London, Versailles, and Madrid." The Empress declared that her own justice, equity, and moderation, shown during her war against the Porte, in respect to the rights of neutrals, and the impartiality that she had evinced during the present war, had led her to hope that her own subjects would enjoy the fruits of their industry and the advantages belonging to all neutral nations. Finding herself disappointed, the Empress, before taking further measures, thought it right to express to all Europe the following principles, which she found in primitive international law, and which had received the sanction of treaties: —

[1] *Diaries and Correspondence of James Harris, first Earl of Malmesbury* (London, 1844), i. 222.

[2] Malmesbury, i. 279.

[3] Koch, iv. 35; Circourt's translation of Bancroft, iii. 235, etc.; Bergbohm, *passim*.

(1.) Neutral vessels may sail freely from port to port, on the coasts of belligerent powers. (2.) Free ships make free goods, except in the case of contraband. (3.) Contraband goods are arms, ammunition, etc., but not provisions, nor materials for building and furnishing ships. (4.) A port can be considered blockaded only when, from the disposal of the blockading force, there is evident danger in entering it. (5.) The principles enumerated above are to be observed in judging of the legality of prizes.

The Empress announced that in support of these principles she was arming a large part of her fleet, but declared her intention to keep the peace unless she were interfered with, and hoped that the belligerent powers would give orders to their officers in accordance with the principles above defined.

The importance of this declaration can hardly be exaggerated. It was certainly not true that the principles here expressed had always been accepted as the law of nations. France and England, in the days of their maritime strength, had never acknowledged rules so liberal. But it was no small matter that such good laws should be recognized and laid down as universal by a great power. The neutral nations thenceforth have had something definite to strive for.

EARL OF SANDWICH.*

The belligerent powers replied to the declaration of Catherine. The king of England professed that he always obeyed international law and subsisting treaties. The king of France expressed his satisfaction at seeing the Empress sustain the cause of neutral rights; which, as he explained, was the very cause he was fighting for. The king of Spain said that he considered the step her Majesty had taken an effect of her confidence in him, and was the more pleased because the principles which she had adopted were those by which he had always guided his own conduct. It was only the evil behavior of England which had forced him to follow her out of the right course. In truth, he believed that no great harm had been done; and

* [From the *European Magazine*, May, 1787, p. 299. He was first lord of the admiralty under the ministry of North. — Ed.]

for what might have occurred the neutral powers were principally responsible, their ships having used false papers. The king expressed his wish to have the glory of setting the first example of respect for the neutral flags of all such courts as had determined, or might determine, to defend themselves, until he should see what the English navy would do, and whether the English privateers would be kept in check. After this magnanimous declaration, his Catholic Majesty drew attention to the fact that Gibraltar was actually blockaded.

Denmark and Sweden were informed of the course of Russia. Both of them issued declarations to the belligerents, and entered into conventions with Russia and with each other. On the 8th of October, 1780, the Congress of the United States voted that the admiralty should report instructions to the officers of their armed vessels, in conformity with the principles laid down in the Russian circular. They also empowered their ministers abroad [1] to accede to such regulations, conformable to the spirit of the declaration, as should be agreed to by a congress expected to assemble on the invitation of the Empress of Russia. We shall presently see how the Netherlands were forced into the alliance a few months later. Austria and Prussia joined the Armed Neutrality, as it was called, in 1781; Portugal, in 1782; the two Sicilies, in 1783. Thus every considerable civilized maritime power was brought, temporarily at least, to the support of justice and moderation, and into opposition to England.

SAMUEL HUNTINGTON.*

The conduct of England toward the Netherlands, during the whole war, was such as to leave little doubt in an impartial mind that the object of the English ministry was simply to injure a weaker rival. A treaty had existed between these countries for more than a hundred years, in which it was declared that free ships made free goods, and that clothing, ship-timbers, and naval stores were not contraband of war.[2] This treaty had been disregarded by England during the Seven Years' War, and was

[1] [Francis Dana was sent to Russia, and his commission and instructions were dated Dec. 19, 1780 (*Secret Journals*, iii. 357). His correspondence is in the *Dip. Corresp.*, viii. 239, etc. — Ed.]

[2] Treaty of 1st of December, 1674. Dumont, vii. 282.

* [From Du Simitière's *Thirteen Portraits* (Lond., 1783). Cf. *Heads of Illustrious Americans* (Lond., 1783). He was president of Congress from Sept., 1779, to July, 1781. — Ed.]

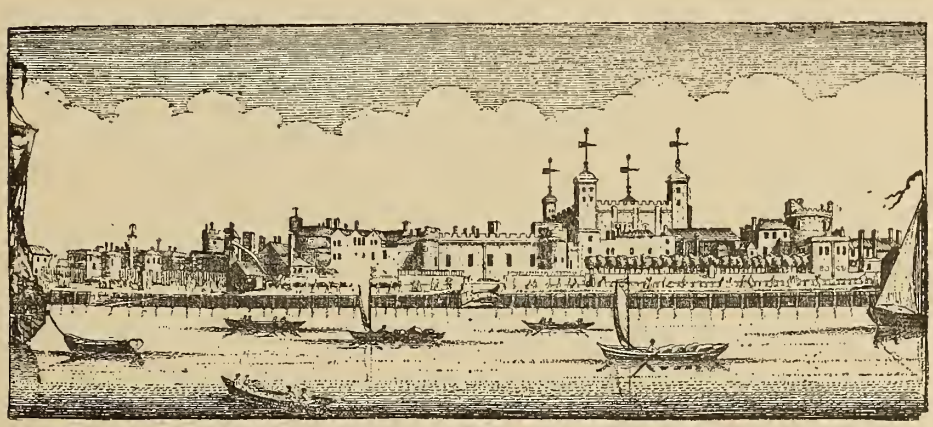
equally disregarded during the war of the American Revolution. The tone of the English government toward the States-General was arrogant in the extreme. In 1777, the English admiral at the Leeward Islands was instructed to search all Dutch vessels sailing into or out of the Dutch harbor of St. Eustatius, and to send to an English port all such as should be found to contain clothing or materials for clothing. The governor of the island of the same name, having allowed the salute of an American cruiser to be returned, and having said that he was far from betraying any partiality between England and the North American colonies, the English ministers addressed to their High Mightinesses a note so insolent that even the weaker power felt called on to express its resentment. The governor, however, was recalled. The interested attachment of the Stadtholder and the Grand Pensionary to the English party, as well as the sense of its own weakness, kept the country quiet for a time. The loose and ill-defined bond which united the provinces was a source of trouble. In 1778, the American commissioners in Paris wrote a letter to the Grand Pensionary of the Netherlands, informing him of the treaty of amity and commerce with France, and expressing a desire that a good understanding might be cultivated between the Netherlands and the United States, and that commerce might be established between them. No notice was taken of this letter by the authorities of the Dutch confederation. The burgomasters of Amsterdam, however, through their pensionary Van Berckel, officially expressed a wish to an American correspondent for a perpetual treaty of amity, whenever the independence of the United States should be acknowledged by the English.[1] The pensionary acknowledged that he could speak but for one city, and the American commissioners, on being applied to, refused to move further in the matter. William Lee, on his own responsibility, negotiated a treaty with a merchant of Amsterdam, but the commissioners refused to recognize this irregular proceeding. Meanwhile, the English cruisers and privateers were robbing the Dutch merchants on the high seas. To all complaints Lord Suffolk answered that, treaty or no treaty, England would not suffer materials for shipbuilding to be taken to French ports. Lord Suffolk, dying, was succeeded by Lord Weymouth, and Lord Weymouth by Lord Stormont, but the same policy was pursued. Yet a few American merchantmen were allowed to enter the port of Amsterdam. On the 4th of October, 1779, John Paul Jones sailed into the Texel on board of the "Serapis," which he had captured from the English after a gallant struggle;[2] with the "Countess of Scarborough," also a prize; and one American and two French vessels. Sir Joseph Yorke, the English envoy, claimed that Jones should be treated as a pirate, and that the British ships should be given up. The Stadtholder might have yielded. The Grand Pensionary stood firm for neutral rights. By a compromise, the French flag was raised over the prizes, and on the 27th of December they sailed away.

On the same day, seventeen Dutch merchantmen, sailing under the con-

[1] Sparks's *Dip. Corresp.*, i. 457.

[2] [See Vol. VI. ch. vii. — Ed.]

voy of five Dutch ships of war, were stopped in the English Channel by a superior English fleet. Twelve of the merchantmen escaped during the night. The next morning a shallop was sent by the English admiral to visit the remaining five. The Dutch admiral fired upon the shallop, and the English admiral fired upon him. The Dutchman, yielding to superior force, struck his flag, and the English sailors carried off their booty. Sir James Marriott, sitting in admiralty on the vessels so taken, is said to have announced a convenient doctrine: "Grotius and Bynkershoeck agree, and who is there that will deny, that necessity gives us the right to make ourselves masters of everything, without the seizure of which a nation cannot defend herself? As in relation to want, if an enemy on the one part is in want of stores, the want to intercept them on the other is equal. And in relation to blockades, every port of the enemy is blocked relative to a neutral vessel with stores which is seized, and, by consequence, blocked,



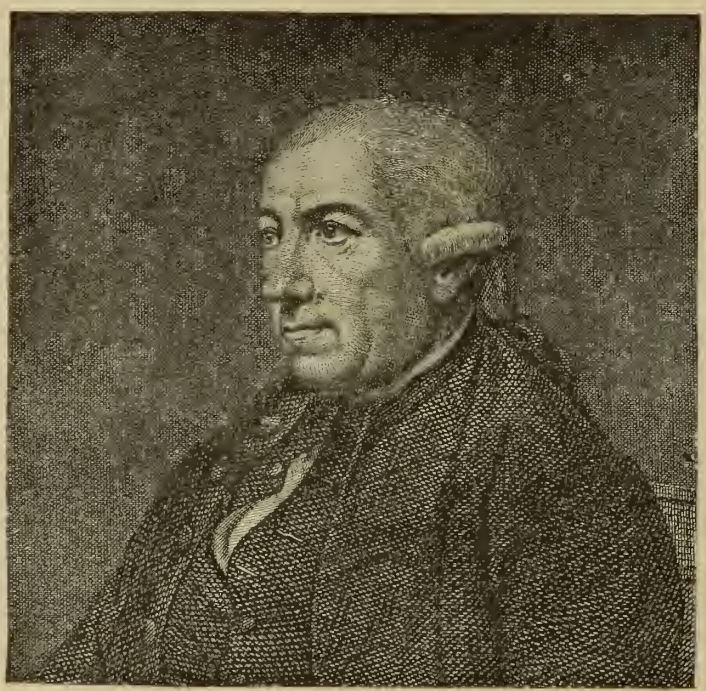
TOWER OF LONDON.*

and forbidden to go there. It imports little, that whether the blockade be made across the narrows at Dover, or off the harbor of Brest, or l'Orient. If you are taken, you are blocked. Great Britain, by her insular situation, blocks naturally all the ports of Spain and France. She has a right to avail herself of this situation, as a gift of Providence."[1] As gifts of Providence, the English continued to gather in the cargoes of their neighbors. It was not until very many ships had been taken that the British government, in April, 1780, officially announced that it would in future disregard the rights of the Dutch under the treaty, on the ground that the treaty had already been infringed by the States-General, which had not furnished aid against the enemies of England, as, under the defensive alliance subsisting between the countries, they were obliged to do. Sir Joseph Yorke was instructed to use his position of envoy of a friendly power to collect information which might enable the British cruisers to take valuable

[1] Report of John Adams in Sparks's *Dip. Corresp.*, iv. 472.

* [After a print in the *London Magazine*, 1789. — Ed.]

prizes. Still the Stadtholder refused to join the northern confederation supporting the Armed Neutrality, unless the colonial possessions of the Netherlands should be assured. This Russia would not grant, but the draft of a convention in accordance with her wishes was prepared. England, meanwhile, did not desire to quarrel with Russia, — her policy being



HENRY LAURENS.*

to bully a small power rather than to fight a large one, — and gladly seized on a pretext for a war with the Netherlands, unconnected with the Armed Neutrality.

In October, 1780, Henry Laurens, who was on his way from America to

* [From Delaplaine's *Repository* (1815). The painting is by C. W. Peale. Cf. J. C. Smith's *Brit. Mezzotint Portraits*, ii. 568. A painting by Copley is mentioned by Perkins (p. 80), who says its ownership is not known; but a portrait by Copley, said to have been painted for Thomas Hollis while Laurens was in the Tower, is noticed in *Mass. Hist. Soc. Proc.*, June, 1886, p. 8, and is said to be, or to have been, lately in the Corcoran gallery in Washington, and to have been engraved by T. B. Welch. A portrait of Laurens by Copley, engraved by V. Green, London, is reproduced in the *Mag. of Amer. Hist.*, July, 1887. (Cf. *Harper's Mag.*, lxvi. 841), in connection with a paper "Henry Laurens in the London Tower," which also has a facsimile of an old print of the Tower, at the time of Laurens's confinement. There are in the *Sparks MSS.* (no. xlix. vol. iii.) a letter in pencil of Laurens from the Tower, Dec. 20, 1781, complaining of his imprisonment, addressed to Congress; and a letter of his son, Henry Laurens, Jr., Amsterdam, March 28, 1782, describing his father's incarceration. There are also in *Ibid.* (no. lii. vol. iii. no. 45) various papers, after originals in Madison's possession, respecting Laurens's petition from the Tower, Dec. 1, 1781. Cf. *Hist. Mag.*, x. 99. 237, 265; xi. 129; *South Carolina Hist. Soc. Coll.*, vol. i.; Parton's *Franklin*, ii. 405; *Poole's Index*, p. 728. The *Political Magazine* gives an account of the capture of Henry Laurens (vol. i. p. 735), and prints the papers captured with him (p. 691). — Ed.]

Holland for the purpose of asking for a loan for the United States,[1] was taken prisoner at sea, and finally confined in the Tower of London. He had failed to sink his papers. Among them were found the draft of the treaty of commerce agreed upon between William Lee and his Dutch friend De Neufville, who professed to act under the instructions of Van Berckel, the pensionary of Amsterdam, and sundry letters concerning affairs in the Netherlands.[2] These papers were sent off at once to Sir Joseph Yorke, with orders to communicate them to the Stadtholder. In a memorial to the States-General, Sir Joseph blamed and threatened, and demanded the formal disavowal of the conduct of the "gentlemen of Amsterdam," and the exemplary punishment of the pensioner Van Berckel. With this demand the States-General had already complied in so far as to condemn the conduct of the magistrates of Amsterdam. The English government, in a further memorial, insisted on the punishment of Van Berckel and his associates. Meanwhile, Sir Joseph regretted his inability to stir up a mob to murder the Pensionary.[3] The British memorial was speedily followed by a manifesto. This document proclaimed that the treaty of 1678 between England and the Netherlands required that one of the two allies who was not attacked to break with the aggressor in two months after the party attacked should require it; that England had been attacked by France and Spain, and not the least assistance had been given her. It stated that the States-General had suffered an American pirate to remain several weeks in one of their ports; that they had endeavored to raise up enemies against England in the East Indies; and in the West Indies had given assistance to her rebellious subjects. But the treaty between De Neufville and Lee, informal and valueless as it was, was made the chief pretext. In a patronizing tone of sorrow and anger, war was declared, while the rich and weak neighbor whom it was designed to

HENRY LAURENS, JR.*

[1] *Secret Journals of Congress*, ii. 290. [Sparks's *Dip. Corresp.*, ii. 453. The Dutch published several satirical prints on the English rescuing his papers. Cf. Muller's *Americana* (1877), no. 1,809–10. — Ed.]

[2] Papers given in *Annual Register* (1780), pp. 356–373.

[3] Bancroft, x. 437, quoting Yorke to Stormont, November 14th.

* [From Du Simitière's *Thirteen Portraits* (London, 1783). Repeated in Frank Moore's *Laurens Papers* (N. Y., 1861). Cf. also *Heads of Illustrious Americans* (London, 1783). — Ed.]

plunder, was kindly informed that the king would ever be disposed to return to friendship with the States-General when they sincerely reverted to that system which the wisdom of their ancestors had formed, and which had been subverted by a powerful faction, conspiring with France against the true interests of the republic no less than against those of Great Britain. Lord Stormont refused to receive further communications from the Dutch minister, and the latter was hurried out of London. It would not have done to reopen negotiations. Orders had already been sent to Rodney for the capture and plunder of St. Eustatius. On the 3d of January, 1781, the United Provinces formally joined the Armed Neutrality.[1]

R. R. LIVINGSTON.*

[1] [Between 1777 and 1784, the States-General printed in detached brochures the most important papers respecting their negotiations with Great Britain and the United States. There is a set of these in the Sparks collection in Cornell University (*Sparks Catal.*, no. 1,851). Muller (*Catal.*, 1877, no. 3,371) notes a set, 1779–84, in five volumes, with the general title *Verzaamelingen van politiecque werkjes*. The series is very rare, being printed for diplomatic use only. In the State Department at Washington are preserved the papers of the American agent, Dumas, during his residence in Holland (1777–1783); while those of Sir Joseph Yorke (1776–1780), the British minister, are in the English archives. Both are copied in the *Sparks MSS.* (nos. lxxii. and lxxiv.), as are (nos. lxxxii., lxxxiii.) the correspondence of the French minister (1776–1782) and the Abbé Desnoyers (1776–1781). The catalogues of Frederick Muller, of Amsterdam (*Books on America*, 1872 and 1877), show how access to a good collection of Dutch tracts and periodicals on the period is necessary to a full comprehension of all the details of the relations with Holland at this time. These publications cover the question of neutral rights as raised by Holland, the English raid on St. Eustatius, the urgency of the Armed Neutrality, and the complication produced by the reception of Paul Jones in Dutch ports. They include files of such periodicals as the *Gazette de Leyde*, the *Nederlandsche Mercurius*, the *Politique Hollandais*, the *Haarlemsche Courant*, and the *Nieuwe Nederlandsche Jaerbocken*. These Dutch tracts will be found mainly grouped together in Muller's *Catalogue* of 1872, nos. 1,578–1,726; and in his *Catalogue* of 1877 will be found in part under nos. 271, 1,208, 1,238–40, 1,251, 1,778, 1,869, 1,915, 2,100, 2,337, 2,548, 2,567, 2,586, 2,730, 3,049, 3,149, etc., 3,228, 3,366, 3,371. The preparatory plan found among Laurens' papers was printed in Dutch at Amsterdam in 1780, and Muller says that "the number of pamphlets caused by it is endless." The most conspicuous attack upon it and the Amsterdam party was R. M. van Goens's *Politiek Vertoog*, and Calkoen and others controverted it. John Adams, who was in Holland at the time, set forth in twenty-six letters addressed to Calkoen, the story of the rise and progress of the Revolution in America, which did much to create an enlightened judgment on the pending questions between the States-General and America. These letters were printed but not published by Adams in London in 1786; were published in New York in 1789; were included in the *Correspondence of the late President Adams* in Boston in 1809; and are included in *John Adams's Works*, vii. 265, etc. The instructions (Dec. 29, 1780, and Aug. 11, 1781) to Adams to make a treaty with Holland are in the *Secret Journals*, ii. 375, 470. On Adams's mission, see the *Adams-Warren Correspondence*, p. 425, and his *Works*, index. On the war, which the seizure of the Laurens papers precipitated, see, on the English side, Donne, ii. 350; Adolphus, iii. 221; Massey, ii. 382; Mahon, vii. 81. The forcing of a rupture with Holland is called by Fitzmaurice (*Shelburne*, iii. 117) a discreditable move on the part

* [After the cut in *Harper's Mag.*, lxx. 351. There is a likeness in Independence Hall. Livingston was made the head of the Department of Foreign Affairs, created Jan. 10, 1781 (*Secret Journal*, ii. 580; *Dipl. Corresp.*, xi. 201; Hamilton's *Republic of the U. S.*, ii. ch. 28). — Ed.]

Congress had gone on adding to its issues of paper money with increasing rapidity, as the paper itself had sunk in value. Neither patriotism nor the fear inspired by penal enactments could make people take the discredited promises for full pay. Before the close of 1779, two hundred millions of dollars had been issued. A great deal of counterfeit money had also been put in circulation, both by the British government and by individual forgers. The rate of discount was varying and arbitrary — as much as three hundred paper dollars being sometimes demanded for one of silver. Congress was at last obliged, officially, to recognize the depreciation,[1] and agreed, in receiving taxes, to take one Spanish milled dollar in place of forty dollars of the bills. The old notes paid in were to be destroyed and new ones issued in their place, at a rate not exceeding one new for twenty of the old. It was hoped that the new bills would remain at par. On the 28th of June, 1780, it was resolved that the principal of loans made to the United States in bills should be discharged, by paying in silver the current exchange value of those bills at the time the loans had been made. It was not many months after this that the paper money disappeared altogether from common use. "At once, as if by that force which, in days of ignorance, would be ascribed to enchantment, all dealings in paper ceased. Necessity forced out the gold and silver — a fortunate trade opened at the same time to the Havana for flour, all restrictions were taken off, and the Mexican dollars flowed in by thousands; this supported the sinking spirits of those who would have been discontented and uneasy, and in a few days specie became the universal medium, and so continues." Thus wrote Joseph Reed in the summer of 1781.[2] The laws to limit prices, introduced by various States, had proved failures. A system of payment of taxes in kind had been resorted to. It was wasteful, and gave a great opening to fraud. Yet, although specie was becoming common in the country, and a luxurious style of living was making its way among the rich, taxes could not be collected. From 1781 to 1785, $15,670,987 was called for by Congress and apportioned among the States. On the 1st of February, 1786, only $2,450,803 of this had been actually paid.

From the beginning of the war until 1781, the management of financial affairs was in the hands of the Board of Treasury. After that year they were under the control of Robert Morris,[3] an honest and able man, who did everything in his power to reform abuses, and who often raised money on his own credit for the use of his country. He introduced many economies, and was prevented from bringing order into the finances chiefly by the refusal of the States to tax themselves, and by the inability of the govern-

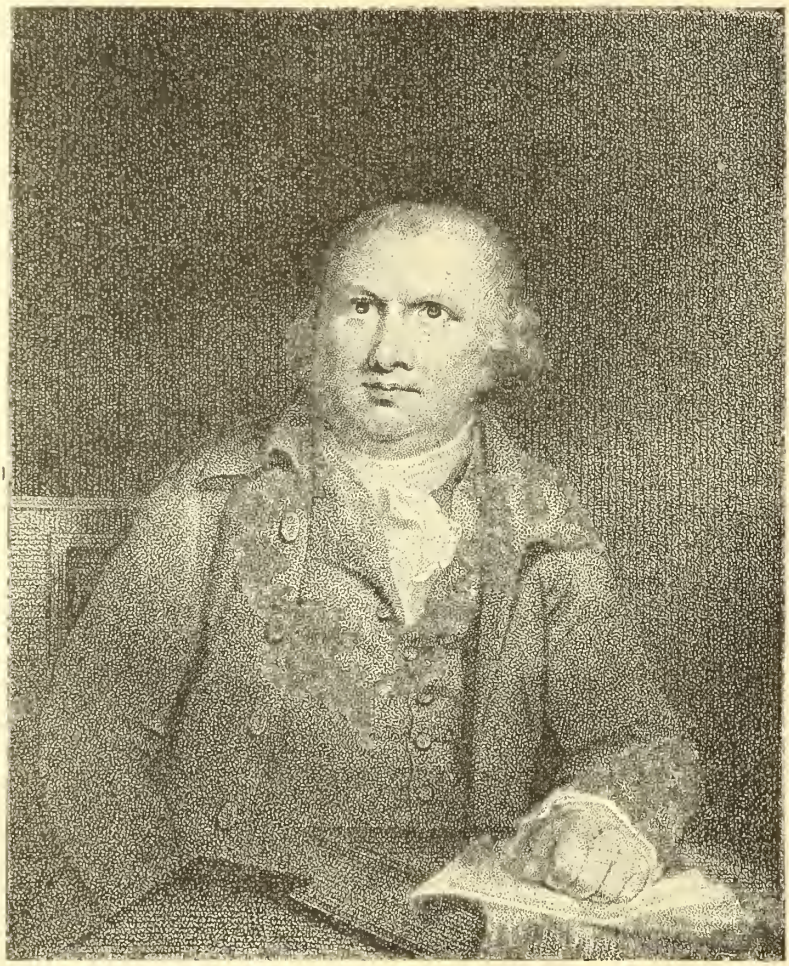
of England to render the American war popular by the chance of plundering St. Eustatia. Cf. Sparks's *Dip. Corresp.*, ii. 461; v. 367. — Ed.]

[1] *Journals of Congress*, March 18, 1780.

[2] Reed's *Reed*, ii. 295. Reed's grandson says, "Evidently written in the *spring of 1781*." The allusions on page 296, however, fix the date as not earlier than June.

[3] Accepted office 7th May, 1781. Took exclusive control 20th Sept.

ment of the confederation to enforce taxation among them. On the 1st of January, 1783, the United States owed $7,885,088 in foreign countries, and $35,327,769 at home.[1]

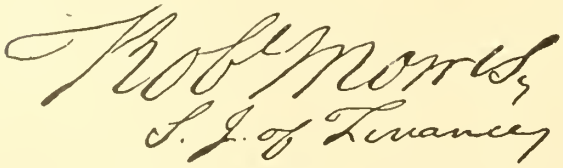


ROBERT MORRIS.*

The whole matter was complicated by the state of the currency. It was not until the 6th of July, 1785, that the dollar of $375\frac{64}{100}$ grains of silver

[1] Bolles, i. 317.

* [From Delaplaine's *Repository* (1815), after a portrait by R. E. Pine. His portrait is among those in Independence Hall. Cf. Scharf and Westcott's *Philadelphia*, i. 277 (with view of his house, p. 278; another picture in Brotherhead's *Signers*, 1861, p. 3). There is also a portrait in Sanderson's *Signers*, vol. v. Colonel Michael Nourse published a statement of the accounts of Robert Morris in Homans's *Banker's Mag.*, Feb., 1860 (ix., new series, p. 576). Cf. G. W. P. Custis's *Recollections*, ch. 13. — Ed.]



was finally established as the unit, with the same subdivisions which have been retained. The Mexican dollar used during the Revolution was more than two per cent. heavier. All sorts of coins were in circulation, and pounds, shillings, and pence, of different values in different States, were used in many computations. It is not wonderful that accounts were sometimes inextricably confused.

We have seen that before the alliance with France the French and Spanish governments had furnished pecuniary aid to the United States. Beaumarchais had received two million of livres from France and one million from Spain. This money appears to have been honestly expended in purchasing of the French government old arms and ammunition lying in the arsenals, with other stores, to be dispatched to America. A million livres were obtained from the farmers-general, in consideration of which tobacco was to be sent. But a small amount of the tobacco ever reached France. Two million livres appear to have been promised through Mr. Grand, the banker, in 1777, and three millions for 1778. Of these five millions, only two were actually paid.[1] Spain, in addition to the million sent to Beaumarchais, promised a loan of three million livres, but only one hundred and seventy thousand livres were paid over. This amount was expended in repaying the advances of a Spanish mercantile house. Later in the war, John Jay, as minister from the United States, succeeded in obtaining from Spain a loan of one hundred and fifty thousand dollars.[2]

GOUVERNEUR MORRIS.*

From the time of the treaty of alliance, the assistance furnished by France was still greater. From February, 1778, to July, 1782, it amounted in money lent to eighteen million livres.[3] The next year a final loan of six millions was granted. In addition to this the king of France made sundry presents to the United States. We have seen that two million

[1] *Deane papers*, 35, 37, 50; Lomenie's *Beaumarchais*, ii. 186; Sparks's *Dip. Corresp.*, i. 282.

[2] Bolles, i. 246–250, and authorities quoted, viz.: Sparks's *Dip. Corresp.*, i. 275, 357; ii. 40, 45, 49, 125, 133, 138, 162, 167, 173, 179, 180; vii. 300, 304, 310; viii. 49, 70, 71; Jay's *John Jay*, i. 109, 110.

[3] The amount liquidated by solemn treaty, 16th July, 1782.

* [From Du Simitière's *Thirteen Portraits* (Lond., 1783). Cf. *Heads of Illustrious Americans* (Lond, 1783). An engraving, by G. Kruell, after a painting at Morrisania, is in *Scribner's Mag.*, Jan., 1887, p. 94. Morris was assistant to Robert Morris in the Finance Department in 1781. — Ed.]

livres were advanced to Beaumarchais, and two millions to the commissioners, through Mr. Grand, the banker. One million came from the farmers-general. In 1781 six millions were directly presented, and two more in 1782. This made a total of thirteen millions.[1] In the autumn of 1780, Colonel John Laurens, of Washington's staff, was sent out on a special diplomatic mission to ask for a loan. His independent bearing gave some offence at Versailles, and he failed to obtain direct aid. Ten million livres, however, were borrowed at this time in Holland, on the credit of the United States, guaranteed by that of France. The Dutch government refused at first to countenance this plan, not for fear of the security being insufficient, but on account of the complications which might arise with England. The French government finally agreed to advance the money itself, but was subsequently able to obtain it from Holland, on the security first proposed.

After the treaty of commerce between the United States and the Netherlands was signed, John Adams succeeded in opening considerable loans in Holland, through Dutch banking-houses. These loans amounted in January, 1785, to nearly seven million guilders. The pecuniary affairs of the United States were managed in Holland with more ability than either in France or in America. This appears to have been principally due to the diligence and sense of honor of John Adams. The Dutch loans, moreover, contracted later than the French, stood on a purely mercantile basis; while the money lent by France had been lent from political motives, and prompt repayment of it had not been expected. The articles of confederation under which the United States managed to live until 1789 were grossly inadequate to the government of the country, and the Treasury suffered with all the other departments. It was reserved for the officers appointed under the new Constitution, and especially for Alexander Hamilton,[2] to open a new era of American finance.

[1] Dr. Franklin reckons twelve millions, Sparks's *Dip. Corresp.*, iii. 494. In the contract between the United States and France, February 25, 1783, only nine millions are enumerated. This is done by counting only three millions before the treaty of 1778, and by omitting the two millions of 1782. Beaumarchais was reckoned at one million only. It may be that he returned his second million to the treasury. The million of the farmers-general was probably the other million omitted. This would leave three millions before 1778, viz., one to Beaumarchais and two to Grand.

[2] [Hamilton had begun to show his financial skill before the war closed. J. T. Morse's *Hamilton*, i. 86. — Ed.]

CRITICAL ESSAY ON THE SOURCES OF INFORMATION.

THE original authorities for the diplomatic history of the American Revolution must be sought principally in the archives of the Department of State in Washington, in the Public Record Office in London, in the archives of the *Ministère des Affaires Étrangères* in Paris,[1] and in the corresponding archives in Spain, Germany, Holland, and Russia. No catalogue of the papers relating to the Revolutionary War in these various archives has ever been published. Mr. B. F. Stevens, the despatch agent of the United States in London, has prepared a list of such documents, to the number of over ninety-two thousand. The papers catalogued by him are contained in about three thousand volumes in the archives of England, France, Holland, and Spain. They do not include any from the German archives. Mr. Stevens intends, if he can secure the necessary aid from the American government, to cause a large number of the more interesting documents to be printed, and to make chronological and alphabetical indexes.[2] Until this large plan shall have been carried out, the American scholar in search of new matter will be obliged to prosecute long and laborious studies in Europe.

There are, however, already in America several large and valuable collections of manuscripts bearing on the diplomacy of this time. Among the most important of these, after that of the Department of State, are the Sparks collection and the portion of the papers of Arthur Lee in the library of Harvard College.[3] The latter papers are especially rich in material for the study of the diplomacy of the Revolution. They have been rendered accessible by an excellent catalogue.[4]

Of the printed authorities, the most important are the letters and documents edited by Sparks, which have been considered in another volume. A very elaborate work on the coöperation of France in the founding of the United States is in course of publication in Paris.[5]

[1] [Cf. Bancroft's statement respecting the diplomatic records in Paris in his final revision, iii. 486. The original records and letter-books of the American legation in Paris, 1776–1785, are among the Stevens-Franklin MSS. in the Department of State. — Ed.]

[2] Circulars of B. F. Stevens, United States Despatch Agency, 4 Trafalgar Square, W. C. London (1885), and MS. lists in his possession. A notice of German MSS. relating to the Revolutionary War was read in 1887 before the Mass. Hist. Society, and will be found in its *Proceedings*.

[3] Cf. list in the *Catalogue of the Library of Jared Sparks, Cambridge, 1871*, edited by Mr. C. A. Cutter. A fuller catalogue is in course of publication. These MSS. are described elsewhere in the present *History*.

[Sparks's methods are also described elsewhere. He took special pains (Sparks's *Catal.*, p. 229) to collect the diplomatic papers from the English, French, German, Dutch, and Spanish archives, and his copies also include (nos. lxxxi. and xc.) the papers of Gérard and Luzerne from the Department of State, which he has translated and printed in the *Dip. Corres.*, vol. x., as well as the official papers (no. lxxiv.) of C. W. F. Dumas, who acted in Holland for the United States, 1777–83. The principal numbers of the *Sparks MSS.* to be of use are these: lii., the papers of Matthew Ridley, in Paris, 1782–83, in which Sparks says Franklin was unjustly treated; lv., papers of various attempts at reconciliation (1776–79), from originals in the London State Paper Office; lxxiii., the correspondence of France and Spain, 1776–78; lxxv., the Favier papers, 1778–80; lxxviii., copies in Sparks's own hand, with parts cut out by the official censor of the French archives, selected from thirty volumes of MSS. in the *Archives des Affaires Étrangères* in 1828; lxxx., papers (1776–82) from the French archives; xcii., letters of Montmarin and Vergennes, 1778–82. There are translations of some of these in no. xxxii.—Ed.]

[4] *Library of Harvard University, Bibliographical Contributions. Edited by Justin Winsor, Librarian. No. 8, Calendar of the Arthur Lee Manuscripts of Harvard University* (Cambridge, 1882). The other parts of the Lee collection are described elsewhere.

[5] See p. 79, n. 6. The collections of Sparks which bear more especially on the subject are: (*a*) *Dip. Corres. of the Amer. Rev.*, 12 vols. 8° (Boston, 1829–30); (*b*) *The Writings of George Washington*, 12 vols. 8° (Boston, 1834–37); (*c*) *Corres. of the Amer. Rev., being letters to Washington*, 4 vols. 8° (Boston, 1853); (*d*) *The Works of Benjamin Franklin*, 10 vols. 8° (Boston, 1836–

Of the collections of treaties and public diplomatic acts for the period under consideration, that of Martens is by far the fullest; but it is by no means complete. It is necessary, moreover, for a perfect understanding of the diplomacy of the years from 1776 to 1782, and more especially of the Armed Neutrality, to refer to some treaties of a much earlier date, which are not included in Martens. For this purpose the works of Chalmers, Jenkinson, and Wenck will be found useful. The catalogue of Tétot, although very useful, is incomplete. The treaties and conventions to which the United States were a party have been published by order of Congress. A list of treaties, conventions, and international declarations concerning the Revolutionary War and the Armed Neutrality, and the titles of works in which these documents are printed, will be found in the appendix to this chapter.

The diplomatic histories of Koch and of Flassan should be consulted. The former contains an able review of the general subject of the rights of neutrals at sea,[1] beside other valuable matter. The latter, together with a general review of the relations of France and the United States, contains a particularly valuable account of the negotiations between France and Spain, including some documents which I believe are not published elsewhere.[2]

The *Statutes at Large of Great Britain* for the first twenty-three years of George III, the *Parliamentary Register*, and the *Journals of Congress* from 1774 to 1785 contain much indispensable information for this time. The *Parliamentary Register* does not report debates in full;[3] the *Journals of Congress* do not report them at all. It is therefore desirable to turn to collections of speeches, and to private diaries. *The Correspondence of George III. with Lord North*[4] contains many interesting particulars, both in the text and in the notes.

In addition to the books in which diplomatic documents are printed complete, many histories and biographies contain quotations, or abstracts of papers not otherwise attainable. This is particularly the case with Bancroft's *United States*. Coming later than Sparks, Bancroft has profited by the result of the labors of his predecessor, and has pushed on his own investigations in new fields. On the subject of the British failure to hire troops in Russia, and of the subsequent bargains with Brunswick and Hesse, Bancroft has written very fully;[5] and it was partly by the use of his copies of papers in Europe that

40); (*e*) *Life of Gouverneur Morris*, 3 vols. 8° (Boston, 1832). [An examination of Sparks's method in this respect is made elsewhere in the present work. — Ed.]

[1] At the beginning of the fourth volume.

[2] [The subject of this chapter has received monographic treatment in William H. Prescot's *Dip. of the Amer. Rev.* (New York, 1852), a careful but not minute study, which Mahon (vii. 45) calls "unpretending, but candid and very able;" and in Theodore Lyman's earlier treatise, *The Diplomacy of the United States, 1778–1814* (Boston, 1826). There are minor treatments in a chapter in George W. Greene's *Hist. View of the Amer. Rev.*, p. 173 (cf. *Atlantic Monthly*, xv. 576); a paper by F. Bowen in *N. Amer. Rev.*, lxxv. 270; in Lossing's *Field-Book*, ii. App., p. 853, and necessarily in the lives of the prominent American diplomatists. There is in the *Sparks MSS.* (no. xciii.) an original incomplete, "Sketches of the Diplomatic History of the American Revolution," by Jules de Wallenstein (1830), together with what Sparks calls a valuable paper, by the same writer, "On the Causes and Principles of the Alliance between France and the United States, 1778." Sparks latterly contemplated a history of the foreign relations of the United States during the Revolution. — Ed.]

[3] There is every reason to believe that the reports do not very closely follow the speeches delivered. Compare, for instance, the speech of Lord Chatham on the hiring of German troops, as given in Almon's *Parliamentary Register*, ix. 8, and in *Select Speeches*, v. 379.

[4] Edited by W. Bodham Donne, 2 vols. 8° (London, 1867). [This editor is inclined to lay more blame on the cabinet and people than on the king. The book occasioned a revival of discussion upon the king's character. Cf. *Edinburgh Rev.*, 1867; *N. Amer. Rev.*, Oct., 1867, by C. C. Hazewell; *Blackwood*, June, 1867; *Quarterly Rev.*, 1867; and *Poole's Index*, p. 510. Cf. references on the king's personal character in Winsor's *Handbook of the Amer. Rev.*, p. 181, and on the character of Lord North, *Ibid.* p. 182. — Ed.]

[5] [Lowell, *Hessians*, preface, says Bancroft is the only American historian who has thoroughly studied the original sources in this matter. — Ed.]

Friedrich Kapp was able to write his valuable monograph on the same subject.[1] At the time, however, when these copies were collected, the Hessian archives were not open to the public. They have since become so. Hesse-Cassel was conquered by Prussia in 1866, and has become a province of that country. The Hessian archives have been removed from Wilhelmshöhe, the palace of the Hessian landgraves, near Cassel, to the romantic old castle of Marburg, where they are carefully kept and generously shown by a body of learned archivists under the orders of the Staatsarchivar, Dr. Könnecke. Copies of the papers may now be taken, and valuable contributions may perhaps be made from

[1] *Der Soldatenhandel deutscher Fürsten nach Amerika, von Friedrich Kapp*, Berlin, 1864. The same, 2d edition, Berlin, 1874. [It was, in part at least, reprinted in this country in the *Deutsch-Amerikanische Monatshefte*, Chicago, 1864. The principal other recent German publications on this subject are: Max von Eelking's *Die Deutschen Hülfstruppen im Nord-Amerikanischen Befreiungskriege*, Hannover, 1863 (cf. *Hist. Mag.*, Feb., 1864, and Jan., 1866); and his *Leben und Wirken des General-lieutenants Friedrich Adolph von Riedesel*, Leipzig, 1856 (of which there is in part an English translation by W. L. Stone. Cf. Sparks in *No. Am. Review*, xxvi.). Lowell (p. vii.) says "his labors are marred by inaccuracies." Of the Baroness Riedesel's *Berufs-Reise nach Amerika*, 1776–1783, Berlin, 1801, there is an English translation by M. de Wallenstein, *Letters and Memoirs relating to the War of Amer. Independence*, New York, 1827, and a version by W. L. Stone, printed at Albany in 1867. J. von Ewald's *Belehrungen über den Krieg, besonders über den kleinen Krieg durch Beispiele grosser Helden und kluger und tapferer Männer*, Schleswig, 1798, 1800, 1803, and the "Feldzug der Hessen nach Amerika" in the *Ephemeriden über Aufklärung, Literatur und Kunst*. Ewald was a participant, and Bancroft (final revision, v. 105) calls him "a man of uprightness, vigilance, and judgment." Lowell (p. 225) says, "Ewald is very trustworthy as to the main facts of his stories, though they generally lose nothing in his telling."

The principal account in English is the *Hessians and the other German auxiliaries of Great Britain in the Revolutionary War*, New York, 1884, by the writer of the present chapter, who first communicated the results of his studies in Europe in the *New York Times* in 1880 and 1881. Other less important studies in English are the rather loosely planned account in J. G. Rosengarten's *German soldiers in the wars of the United States*, Philad., 1886; a paper on the "German mercenaries," by Geo. W. Greene, in the *Atlantic Monthly*, Feb., 1875, included in his *German Element in the War of Amer. Independence*, New York, 1876. Cf. *Hist. Mag.*, viii. 54; x. 7; the *Pennsylvania Mag. of Hist.*, i. 74, on the Hessians in Philadelphia; the *Mass. Hist. Soc. Proc.*, xvii. 57, on the Hessian battle-flags; and *The Nation*, Oct. 15, 1885, p. 319.

Eelking gives a list of the MS. journals to which he had access. Lowell (p. 295) enumerates, beside the printed sources, the manuscripts at Cassel and Marburg, and in the library of the Prince of Waldeck, of which he has copies. My friend, Prof. C. A. Joy (now in Germany), communicated to me references to some MSS. which he had examined, including three MS. diaries in the hands of Dr. H. E. Bezzenberger, of Cassel, one of which is by Wicderhold, a copy, apparently, of the "Tagebuch" of Hauptmann Wiederhold mentioned in Lowell's list. Strieder (p. 346) gives an account of a diary kept by Von der Lith. I find mention of a *Tagebuch von der Reise der Braunschweigischen Auxiliär Truppen von Wolfenbüttel nach Quebec, entworfen von F. V. Melsheimer*, a tract published at Minden in 1776, with a continuation the same year. The *Tagebuch vom Capit. Pausch* is mentioncd by Lowell, as in the Landesbibliothek at Cassel, and has been translated by W. L. Stone as *The Journal of Captain Pausch, Chief of the Hanau artillery during the Burgoyne Campaign, with an introduction by Edw. J. Lowell*, Albany, 1887. Some letters of Schöpff, surgeon of the Anspach-Bayreuth troops, dated New York, Dec., 1780, on the climate and diseases affecting European troops, and printed at Erlangen in 1781, were translated by Dr. James R. Chadwick, and printed at Boston in 1875. The travels of a surgeon of the German auxiliaries, 1776–83, are translated in the *Penna. Mag. of Hist.*, v. 74. For some Hessian opinions of Washington and his companions, see *Atlantic Monthly*, Oct., 1884. The *Stand und Rang Liste der Kurhessischen Armee für das Jahr 1806* gives names of officers who had served in America. Cf. Gen. Von Ochs's *Neuere Kriegskunst* (1817); and August Ludwig Schlözer's *Briefwechsel meist historischen und politischen Inhalts, 1776–82*, reprinted at Göttingen, 1780–82.

The Hessian fly, commonly supposed to have accompanied the German auxiliaries, and in this way to have been introduced into America, is satisfactorily ascertained to have been known in the country before the Revolution, probably brought over by the German immigrants in Pennsylvania. Cf. *Science*, April 11, 1884, p. 432. — ED.]

this source to the diplomatic history of the Revolutionary War. To the military historian the same archives present a still wider field of research. It is not probable that there now exists in any part of the world a collection of documents relating to American history at once so rich and so little explored, as that which lies in this picturesque and accessible spot.[1]

Kapp's monograph was first published in Berlin in 1864. The first edition is valuable, even to persons who possess the second, on account of the original documents which it contains. These the author allowed to be crowded out of the second edition. The book was written with a political purpose, in the interest of the unification of Germany, and Kapp has treated the mercenary princes with little kindness. It is difficult, however, to exaggerate the abuses which grow up, almost of necessity, under the rule of petty despots. The voluminous book of Vehse gives the history, the anecdotes, and the gossip of the German courts in a most amusing way.[2] The more solid but still interesting work of Biedermann deals with the social condition of Germany in the last century.[3]

The bargains for the letting out of troops caused much discussion and adverse comment in Europe at the time when they were made. In a collection called *L'Espion dévalisé*, with the imprint "Londres, 1782," appears an eloquent paper, which has been variously attributed to Mirabeau and to the Abbé Raynal.[4] Von Schlieffen, the minister of the Landgrave of Hesse-Cassel, answered the paper in a small pamphlet, which was published both in German and French,[5] and was reprinted in the curious autobiography of the author.[6] The latter book is very rare, having been printed for private circulation only. It is written in a curiously pedantic, puristic style, all words of French origin being avoided as much as possible, — an affectation which we should scarcely expect to find in a German writer, the active years of whose life belonged to the eighteenth century. The account of the negotiations at Cassel with Colonel Faucitt and of Schlieffen's subsequent negotiations in London, the excuses, for the treaties, and the praise of the Landgrave are very interesting.

In *L'Espion dévalisé*, above mentioned, is another reprint of some historic interest. This is a letter purporting to be written by a German prince, travelling in Italy, to the officer commanding his troops in America, after the battle of Trenton.[7] His Serene Highness has heard with pleasure that out of 1,950 Hessians who were in the fight, only 345 have escaped. The court of London, he says, wishes to pay him for wounded men less than for dead ones, but he hopes that his general has remembered his orders, and not sought, by inhuman succor, to recall to life wretches who could only live in a mutilated state, and who are in no condition for service. Of three hundred Spartans at Thermopylæ, not one returned. How happy would the prince be, to be able to say as much of his brave Hessians! True, the Spartan king Leonidas died at the head of his subjects: but the present customs of Europe do not allow a prince of the empire to go and fight in America for a cause which in no way concerns him; and then, who would receive the thirty guineas for every man killed, if the prince were not left behind?

[1] [Cf. *The Nation*, 1882, vol. xxxv. p. 90; and Charles Gross in *Ibid.* xliii. 52, and *N. Y. Evening Post*, July 15, 1886. — Ed.]

[2] Edouard Vehse's *Geschichte der deutschen Höfe*, 48 vols. 16°, Hamburg, 1851–1860.

[3] Karl Biedermann's *Deutschland im achtzehnten Jahrhundert*, 2 vols. in 4, 8°, Leipzig, 1867–1880.

[4] *Avis aux Hessois et autres peuples de l'Allemagne, vendus par leurs princes à l'Angleterre.* A foot-note says: "Ce pamphlet a paru à Amsterdam, lorsque le prince de Hesse amena ses sujets dans les vaisseaux anglais, comme un boucher conduit ses troupeaux pour les égorger. On l'a traduit en cinq langues; mais il n'est point connu en France." The piece first appeared early in 1777. See Sparks's *Dipl. Corresp.*, ix. 318.

[5] *Des Hessois en Amérique, de leurs souverains et des déclamateurs*, 1782. *Von den Hessen in Amerika, ihren Fürsten*, etc., 1782.

[6] Martin Ernst von Schlieffen's *Einige Betrefnisse und Erlebungen*, 4°, Berlin, 1840. [Cf. *Nachricht über das Haus Schlieffen*, Berlin, 1830, 2 vols., pp. 146, 184. — Ed.]

[7] *Lettre du Comte de Chanmberg* (sic), *écrite de Rome au baron de Hohendorff, commandant des troupes hessoises en Amérique.*

This pamphlet was fully recognized at the time of its first appearance as a squib at the expense of the man-selling princes. It appears in Métra,[1] under the date of March 10, 1777, with the introduction, "On a fait cette plaisanterie très-mordante au sujet du marché de troupes que le Landgrave de Hesse a fait avec les Anglais." A note in *L'Espion*, again, calls it a *plaisanterie*, and says that it was distributed at the same time as the preceding pamphlet.[2] It clearly was circulated in more than one form, for the version given by Kapp in the appendix to his *Soldatenhandel*[3] differs materially from that in *L'Espion*. After being forgotten for more than half a century, the letter was reprinted in a newspaper in St. Louis as genuine.[4] It was copied into Löher's history of the Germans in America,[5] the author expressing the hope, "for the honor of mankind," that it was spurious. It formed the subject of a protest in a German military paper.[6]

The feelings of Frederick the Great on the subject of the bargains for soldiers are expressed in a letter to Voltaire of the 18th of June, 1776.[7] "Had he come out of my school," he says of the Landgrave, "he would not have turned Catholic, nor would he have sold his subjects to England as one sells cattle to be butchered." Yet Frederick could hardly have said that the Prince of Brunswick, who let out his subjects in the same way as the Landgrave, had not come out of his school, — perhaps not the best of schools in which to learn justice or humanity; and in spite of his disapproval of the sale of subjects, the King of Prussia did not hesitate, on the breaking out of the war of the Bavarian succession in 1778, to ask the Landgrave to let him two battalions and several squadrons to form the garrison of Wesel.[8] Napoleon, when in 1806 he ordered the occupation of Hesse by French troops, stated among his reasons for doing so, that for many years the Hessian reigning family had sold the blood of its subjects to England to fight against France, both in the Old and the New World.[9]

More disinterested, or at least more consistent, than the blame of these great slayers of men was the indignation of Schiller the poet, who, by an eloquent scene in his tragedy *Kabale und Liebe*, has taken care that the Germans shall never forget what their ancestors suffered at the hands of the petty princes.[10]

Those princes have not been without defenders in modern times. In 1864, Major Ferdinand Pfister published at Cassel an elaborate justification of the Landgrave and the English, and an equally elaborate attack on the Americans.[11] The book is diffuse, inaccurate, and unreadable, but some of the references which it contains to the German bibliography of the war may be valuable. In the same year was published Kapp's *Soldatenhandel*, above mentioned. That work appears to have remained unanswered for fifteen years, but in 1879 two new champions of the Landgrave undertook to break lances in his defence.

[1] Métra's *Correspondance secrete, politique et littéraire*, 1774–1783, 18 vols. 12°, Londres, 1787–1788.

[2] *L'Avis aux Hessois*, above mentioned.

[3] Cited by Kapp as in the 600th vol. of Pamphlets in the library of the New York Historical Society, and as printed on six octavo pages, in very large type, without place of publication.

[4] *The Reveille*, St. Louis, Oct. 31, 1845. (The reference from Löher, p. 181 *n.*)

[5] Franz Löher's *Geschichte und Zustände der Deutschen in Amerika*, 2d ed., Göttingen, 1855.

[6] *Neue (Darmstädter) Militär-Zeitung, Dritter Jahrgang, 1858, Nr 14* (cited in Kapp's *Soldatenhandel*, 1st ed., p. 198 *n.*).

[7] *Œuvres posthumes de Frédéric II*, 16 vols. (Berlin, 1788), ix. 325, in answer to a letter from Voltaire of May 21st. It would appear from this correspondence that the Landgrave of Hesse had been writing a "Catechism for Sovereigns." *Œuvres complètes de Voltaire*, 92 vols., Kehl, 1785–1789, vol. lxxxvii. p. 236.

[8] Schlieffen, 165, 201.

[9] *Recueil des Bulletins officiels sur les opérations de la Grande Armée contre la quatrième coalition* (Paris, 1806), *Bulletin xxvii., 6 Nov^bre 1806*, p. 129.

[10] Act ii., Scene ii.

[11] Ferdinand Pfister's *Der nordamerikanische Unabhängigkeitskrieg, Erster Band*, Kassel, 1864. (I believe that only a first volume appeared.) [Major Pfister had earlier had a hand in a book of lithographed script, not published, but made at Cassel in 1853, called *Geschichte des Kurfürstlich Hessischen Jaeger-Bataillons, den Kameraden des Bataillons gewidmet*, in which he had written of their American experiences (title communicated by Professor C. A. Joy). — Ed.]

A pamphlet was published, written by two different persons and divided into three parts.[1] The first part is full of inaccuracies. The second, although very involved and obscure, appears to be the work of a man who had some special knowledge of the subject, and this portion of the book may therefore give some information. The third part requires further explanation. Johann Gottfried Seume, in later life a literary man and poet of some note,[2] when travelling on foot through Germany as a student, was impressed by the Landgrave's recruiting officers and marched off to a fortress, whence in due time he was shipped to America, never getting any farther than Nova Scotia. He has written two accounts of his adventures. The first, in the shape of a letter from Halifax, dated 1782, was published in 1789 in a magazine.[3] The article is twenty pages long. Many years later, apparently about the end of his life, Seume wrote a fragment of an autobiography,[4] in which he tells of the same events, with some differences. The narrative is well written, amusing, touching, — probably the best account we have of the sufferings of the Hessians in their military depots and at sea. The author mentions his earlier article in "Archenholz's almost forgotten Journal." This autobiography is, of all the historical writings on the subject of the bargains in men, the one most likely to meet the eye of the German general reader, and to hold his attention. The admirer of the Landgrave has therefore thought it worth while, in the third part of the pamphlet under discussion, to attack Seume's credibility. I do not think that he has made out his case.

The pamphlet of which I have been speaking called forth a reply from Friedrich Kapp,[5] which contains some interesting particulars. The same author has written a small book on a smaller subject, the relation of Frederick the Great to the United States, with a chapter on the treaty of amity and commerce between the United States and Prussia, and an appendix on the United States and neutrality at sea.[6] Kapp's biographies of Kalb[7] and of Steuben[8] should also be noticed, as instructive on the subject of the relation of the United States to France. It has sometimes been forgotten that both of those officers came to America from France, and that whatever gratitude we may owe for their coming is due to that country, and not to Germany.

The assistance given to the United States by Louis XVI was due in great measure to the enthusiasm excited by the American Revolution and by Franklin, at the court of Versailles and in the society of Paris. It is therefore important, not only to study the writings of statesmen, as found in the *Diplomatic Correspondence*, the Sparks manuscripts at

[1] *Friedrich II und die neuere Geschichts-Schreibung* (Anon.), Melsungen, 1879.

[2] [Cf. Strieder's *Grundlage zu einer Hessischen Gelehrten und Schriftsteller Geschichte, 18ter Band*, Marburg, 1819, p. 387. — Ed.]

[3] *Neue Litteratur und Völkerkunde für das Jahr 1789. Zweiter Band. Julius bis December. Herausgegeben von J. W. v. Archenholz*, Leipzig, 1789, p. 362. Translated in *Mass. Hist. Soc. Proc.* 1887.

[4] J. G. Seume's *Mein Leben*, in *Sämmtliche Werke*, 1 vol. 8°, Leipzig, 1835.

[5] Article in Sybel's *Historische Zeitschrift*, xlii. 304 (1879).

[6] Friedrich Kapp's *Friedrich der Grosse und die Vereinigten Staaten von Amerika. Mit einem Anhang: die Vereinigten Staaten und das Seekriegsrecht*, Leipzig, 1871. See also Hans Schlitter, *Die Beziehungen Oesterreichs zu den Vereinigten Staaten von Amerika, I. Theil (1778–1787)*, Innsbruck, 1885.

[7] *Leben des Amerikanischen Generals Johann Kalb*, Stuttgart, 1862; and in English, *The Life of John Kalb*, New York, 1870 and 1884, with a portrait. [Kapp's De Kalb is epitomized in G. W. Greene's *German Element in the War for Independence*, New York, 1876. There is a brief memoir of less value by John Spear Smith, Baltimore, 1859. Cf. *Southern Quart. Rev.*, xxii. 141. For portrait and account of his monument, see *Mag. of Amer. Hist.*, March, 1883, by H. P. Johnston. Congress adopted an inscription for his monument, Oct. 14, 1780 (*Journals of Congress*, iii. 536). Cf. Lossing's *Field-Book*, ii. 667, 668. — Ed.]

[8] *Leben des Amerikanischen Generals Friedrich Wilhelm von Steuben*, Berlin, 1858; and in English, *Life of Frederick William von Steuben*, New York, 1859. [This life is also epitomized by Greene. Kapp died in Oct., 1884. Cf. Geo. von Bunsen's *Gedächtnissrede*, Berlin, 1885; H. A. Rattermann's *Deutsch-Amerikanisches Magazin*, 1886; and the *N. Y. Nation*, Nov. 6, 1884. Cf. Sabin, ix. 393, for bibliography. — Ed.]

Cambridge, the works of Turgot,[1] Franklin, and Adams,[2] but to follow the general current of opinion in the memoirs of Frenchmen who had no official connection with the government. Intermediate between the two classes (for the author was minister of war during a part of the struggle), the memoirs of the Prince de Montbarey[3] express the vain regrets of one who had seen the great French Revolution, and attributed some influence over its beginning to the sympathy expressed in France with the American insurgents. There is reason to think that the prince's recollections are colored by the light of after-events. This does not seem to be the case with those of Ségur, a clear-minded politician and a pleasant writer, who should especially be studied on account of his familiarity with the younger and more liberal nobles, and of his close connection with the older statesmen.[4] Nor should the memoirs of Madame Campan be neglected.[5] They are pervaded by an atmosphere of the back-stairs, but no one had a chance more closely to observe both the king and the queen than their author. The list of books on this part of the subject might be indefinitely extended, for few periods of history are so fully set forth in original documents of every description, or have been so fully commented on by writers of all sorts, as that of the reign of Louis XVI.[6]

On the subject of the contracts of Deane and Beaumarchais, the *Life and Times* of the latter, by Louis de Loménie, is very full and very interesting.[7] The book, which procured for its author the honor of election to the Academy, may almost be considered a French classic. Loménie had the advantage of possessing Beaumarchais's original papers, and he made diligent use of them. The biographer's knowledge of the English language, however, is so scanty as to lead him, in one instance at least, entirely to mistranslate a document before him.[8]

The letters of Arthur Lee and the other commissioners in Paris are to be found partly in the *Diplomatic Correspondence* and partly in Lee's biography and among his papers above mentioned. A volume printed for the Seventy-Six Society contains some of the most interesting documents relating to these contracts.[9] The claims of Beaumarchais

[1] Turgot (A. R. J., Baron d'Aulne), *Œuvres*, 9 vols. 8°, Paris, 1808–1811.

[2] *John Adams's Works, edited by C. F. Adams*, 10 vols, 8°, Boston, 1850–1856.

[3] Prince de Montbarey, *Mémoires*, 2 vols., Paris, 1826.

[4] Louis Philippe, Comte de Ségur's *Mémoires*, 2 vols. 12°, Paris, 1859 (in Barrière's *Bibl. des mém.*, vols. xix. and xx).

[5] Madame Campan's *Mémoires sur la vie privée de Marie Antoinette*, 3 vols. 8°, 1822 (vols. x.–xii. of Berville et Barrière's *Col. des mém.*).

[6] [The principal documentary sources which have been published in France respecting French influence and the French alliance have been the papers in the appendix of Cornélis de Witt's *Thomas Jefferson, étude historique sur la démocratie Américaine* (Paris, 1861); Jolez's *La France sur Louis XVI.* (Paris, 1877); those introduced by Circourt in connection with his translation of Bancroft's tenth volume; and finally, the extensive collection next to be mentioned, and at present continued no further than 1779. M. Henri Doniol, the director of the national printing-house, proposed to the minister of justice, in 1884, to prepare and print a *Histoire de la participation de la France à l'établissement des États-Unis d'Amérique, Correspondance diplomatique et documents*, two quarto volumes of which have so far appeared, the whole work being intended as an offering to the "Exposition Universelle de 1889," and to be completed by that date. It begins the story with the year 1774, and gives the credit to Vergennes of being the chief controller of events. The foot-notes afford an index to the collections of the French Archives, which throw light on the American war and the attendant negotiations. — Ed.]

[7] Louis de Loménie's *Beaumarchais et son temps*, 2 vols. 8°, Paris, 1856; translated into English by Henry T. Edwards, London, 1856. [Circourt (iii. 296) gives the "Mémoires de Beaumarchais et de Dumouriez," 1777–1782. Doniol gives his "La Paix ou la Guerre" (i. ch. 11), his correspondence with Vergennes and others (i. 513; ii. 89, 682). — Ed.]

[8] Arthur Lee says (Lee's *Lee*, i. 61): "The politics of Europe are in a state of trembling hesitation. It is in consequence of this that I find the promises . . . have not been entirely fulfilled." Loménie translates (ii. 141): "*Les politiques de cette cour sont dans une sorte d'hésitation tremblante. C'est parceque les promesses qui me furent faites*," etc.

[9] *Papers in relation to the Case of Silas Deane* (Philad., 1855). Mr. Charles Isham read a paper on Silas Deane before the Amer. Hist. Assoc. in 1887. See their proceedings for that year. See also p. 33, n. 1, of this volume.

and his heirs have been made the subject of many public documents, references to some of which may be found in the useful, although incomplete and inaccurate, catalogue of Ben: Perley Poore.[1]

The latest biography of Beaumarchais, by Dr. Anton Bettelheim, is a well-written book, relying on original sources.[2] In respect to the playwright's connection with the American Revolution, it adds but little to that which had already been said by Loménie; nor does Dr. Bettelheim attempt the difficult task of deciding the amount of Beaumarchais's just claim against the United States.

Concerning the Armed Neutrality, the recent book of Bergbohm[3] is both learned and impartial. It contains, moreover, a valuable bibliography of the subject, together with a chronological calendar of documents. This calendar, although not quite complete, is most useful for reference. Among the authorities for the subject, the various collections of treaties, and other such collections cited by Bergbohm,[4] must take the first place. Sparks's *Diplomatic Correspondence*, the *Annual Register*, the works of Franklin and Adams, should also be consulted.[5] The diaries and correspondence of Sir James Harris, afterwards first Earl of Malmesbury, should be studied.[6] Sir James Harris was British minister to Russia from 1776 to 1783. The memoirs of the Count von Goertz, the Prussian minister at St. Petersburg, likewise deserve attention.[7]

[1] Ben: Perley Poore, *A Descriptive Catalogue of the Government Publications of the United States, Sept. 5, 1774–March 4, 1881*, 4° (Washington, 1885). Cf. also index to Benton's *Debates*.

[2] Anton Bettelheim's *Beaumarchais, Eine Biographie* (Frankfurt a. M., 1886). It gives in an appendix a list of sources, manuscript and printed, and has a portrait. Dr. Hale briefly rehearses Beaumarchais's story in his *Franklin in France*, ch. 3. Dr. Charles J. Stillé has recently printed a pamphlet entitled *Beaumarchais and "The Lost Million." A Chapter of the Secret History of the American Revolution.* It is an attempt to defend the claim of the American government to charge Beaumarchais with the million francs paid to him by the French government.

[3] Carl Bergbohm, *Die Bewaffnete Neutralität, 1780–1783* (Berlin, 1884).

[4] (*a*) C. W. von Dohm, *Materialien für die Statistik und neuere Staatengeschichte, 3 und 4 Lieferung* (Lemgo, 1781, 1782); (*b*) A. Hennings, *Sammlung von Staatsschriften ... während des Seekrieges von 1776–1783, &c.* 2 vols. (Altona, 1784, 1785); (*c*) Baron d'Albedyhll, *Nouveau Mémoire . . . sur la neutralité armée*, in his *Recueil de Mémoires . . . pendant la dernière partie du XVIII. siècle*, vol. i. (Stockholm, 1798); (*d*) C. U. D. von Eggers, *Denkwürdigkeiten aus dem Leben des Königl. dänischen Staatsministers Andreas Peter Grafen von Bernstorf* (Copenhagen, 1800); (*e*) F. von Raumer, *Beiträge zur neueren Geschichte aus dem britischen und französischen Staatsarchiv, Theil 5* (*a. u. d. T. Europa vom Ende des siebenjährigen bis zum Ende des amerikanischen Krieges, 1763–1783*, Bd. III. (Leipzig, 1839); and many others.

[5] See *A Collection of Publick Acts and Papers, relating to the Principles of Armed Neutrality, brought forward in the years 1780 and 1781* (London, 1801). In spite of the title, only thirteen papers out of thirty-nine belong to the year 1780. There are none of 1781. One is a translation of a part of the *Consolato del Mare;* three are old treaties; the remainder are papers belonging to the years 1793–1800. The papers of the year 1780 have all been published elsewhere.

[6] James Harris, first Earl of Malmesbury, *Diaries and Correspondence*, 4 vols. 8° (London, 1844), i. 291, 306, 355.

[7] *Historische und politische Denkwürdigkeiten des preussischen Staatsministers J. E. Grafen von Goertz*, 2 Theile (Stuttgart and Tübingen, 1827–8), which contain a new rendering of *Mémoire ou Précis Historique sur la Neutralité Armée et son origine, suivi de pièces justificatives* (Bâle, 1801), cited in Bergbohm and elsewhere. *The Secret History of the Armed neutrality, together with memoirs*, etc., *by a German Nobleman, translated by St... H...* (London, 1792), with a 2d ed., 1801–2, is said by Bergbohm to be translated from a pirated, inaccurate edition of the *Mémoire* above cited, published at Bâle in 1795. [Reference may also be made to *Annual Register* for 1780, pp. 349, 355; Bancroft, x. ch. 12 and 20; Wells's *Sam. Adams*, iii. 109; Trescot's *Diplomacy;* Halleck's *International Law*, ii. 307; Anderson's *Hist. of Commerce* (1790), vi. 362; and the histories of England by Adolphus, Mahon (vii. 45), and Lecky; T. H. Dyer's *Modern Europe* (London, 1877), iv. 280. Mahon calls the sketch given by Thiers (*Le Consulat et l'Empire*, ii. 106, edition of 1845) "clear and masterly." Some side lights are got from Curwen's *Journal*. Papers of Stephen Sayre are in the *Sparks MSS.*, no. lxxvii. For the claims for the authorship of the plan, see Thornton's *Pulpit of the Rev.*, p. 457. — Ed.]

The correspondence of Frederick the Great with his ministers at foreign courts, together with many interesting letters concerning the whole subject of this chapter, form the third volume of the Comte de Circourt's translation of a portion of Bancroft's history.[1]

The intricate finance of the Revolution has been made the subject of a volume by Albert S. Bolles.[2] The materials are scattered through the *Journals of Congress*, both open and secret, through private letters, essays, and biographies. Mr. Bolles's exposition is in the main clear and methodical; and if a certain amount of vagueness still hangs about the subject and is observable in the book, the fault is probably to be attributed to the non-existence of full sources of information. Some interesting particulars are brought together in the *Historical Sketches* of Mr. Phillips.[3] A full biography of Robert Morris is much to be desired.[4]

[1] *Histoire de l'Action Commune de la France et de l'Amérique pour l'Indépendance des États-Unis, par George Bancroft, etc., traduit et annoté par le Comte Adolphe de Circourt*, 3 vols. 8° (Paris, 1876). [This includes Frederick's correspondence with Von Goetz in Paris, 1776–1782, a few letters of Schulenberg, a correspondence with Maltzan in London, 1774–1777, and with the queen of Denmark, 1777–1781. The defeat of Burgoyne disposed the king towards the American cause. *Malmesbury Letters* (1870), i. 351. The relations of Frederick to the cause is examined in Doniol, i. and ii. There are copies of Frederick's correspondence with his ministers in France and England in the *Sparks MSS.*, no. lxxvii. Cf. *John Adams's Works*, vii. 99; Lyman's *Diplomacy of the United States*, vol. i.; Bancroft, vol. x. — Ed.]

[2] *The Financial History of the United States, from 1774 to 1789, embracing the period of the American Revolution, by Albert S. Bolles* (New York, 1879; 2d edition, 1884).

[3] Henry Phillips, Jr., *Historical Sketches of the Paper Currency of the American Colonies* (Roxbury, 1865), and his *Continental Paper Money*, — *Historical Sketches of American Paper Currency*, 2d series (Roxbury, 1866).

[4] [A more or less general treatment of the continental finances is found in Pelatiah Webster's *Political Essays on Money, etc.* (Philad., 1791); J. W. Schucker's *Brief Account of the Finances of the Rev.* (1874); Greene's *Hist. View of the Amer. Rev.*, p. 137 (also *Atlantic Monthly*, xiv. 491, and *Life of N. Greene*, vol. ii.); Ramsay's *American Rev.*, vol. ii.; Pitkin's *United States*, ii. ch. 16; Bancroft, x. ch. 7; Hildreth, iii. ch. 40, 43, 46; *John Adams's Works*, vii. 292, 355; viii. 193; Rives's *Madison*, i. 217, 229, and ch. 14; Madison's *Debates and Corrcs.*, vol. i.; Sparks's *Gouverneur Morris*, i. ch. 13, 14; Smyth's *Lectures*, ii. 476, 481, etc.; Lecky, iv. 35. Cf. also *Banker's Mag.* (New York), xviii. 356; Eggleston's "Commerce of the Colonies" in *The Century*, xxviii. 246, and the references in Poore's *Descrip. Catal. of Publ. of U. S. Government*, p. 1270, and *Poole's Index*, p. 295. For local aspects, see Felt's *Mass. Currency;* his letters to Sparks in *Sparks MSS.*, no. liv., no. 21; *An Address of the Legislature to the Inhabitants of Mass.*, 1781; the index to Goodell's *Province Laws of Mass.*, vol. v.; Dr. Henry Bronson's Connecticut Currency in *New Haven Hist. Soc. Papers*, i. 171; New Hampshire Act on bills of credit, July 6, 1776, in Force's *Amer. Archives*, 5th series, i. 88; Amory's *Sullivan*, 187; E. R. Potter and S. S. Rider's *Some Account of Paper Money of Rhode Island, 1710–1786*, with fac-similes (Providence, 1880); Reed's *Jos. Reed*, ii. 287; Mulford's *New Jersey*, p. 457; Paper Currency of Georgia in *Hist. Mag.*, ii. 17; iv. 179.

Accounts of the Continental bills may be found in Force, 5th series, ii.; S. Breck's *Hist. Sketch of Continental Money*, in the *Amer. Philosoph. Soc. Trans.*, 1843; *Amer. Antiq. Soc. Proc.*, 1866; J. J. Knox's *United States Notes* (New York, 1884); Hazeltine's *Description of Paper Money issued by the Continental Congress;* Lossing's *Field-Book*, i. 317; *Amer. Antiquarian*, i. 10, 36, 78; *Mag. of Amer. Hist.*, i. 751; Mason's *Coin and Stamp Collector's Manual*, v. 69, 85; *Amer. Journal of Numismatics*, v. 4; vi. 18, 29, 36, 48; *Canadian Antiq. and Numis. Journal*, viii. 147; *Coin Journal*, iii. 1; *Hist. Mag.*, i. 279, 349; ii. 212; iii. 71; iv. 53; v. 71; vii. 282; *Harper's Monthly*, xxvi. 433; *National Quarterly Review*, Dec., 1875. Scales of the depreciation will be found in Gouge's *Short Hist. of Paper Money;* Greene's *Greene*, ii. 163, 243, 248, and his *Hist. View*, 456; Moore's *Diary*, ii. 422; *R. I. Col. Rec.*, ix. 282; *Worcester Mag.*, i. 134, 165, 198, 232, 267; Stephen DeLancey's Tory appeal in *Laurens Corres.*, p. 202; *Mag. of Amer. Hist.*, xi. 165; a summary of the state of the old emissions, in Roger Sherman's handwriting, in the *Sparks MSS.*, no. liv., no. 13, — also *Ibid.* xlix. vol. iii. no. 2. It is said in *Jefferson's Works*, i. 412, that for the 200,000,000 paper dollars issued by Congress only about 36,000,000 silver dollars came into the Treasury.

To assist in securing loans in Europe, Franklin issued (1777) a *Comparison of Great Britain and the United States in regard to the Basis of Credit in the Two Countries*, which was translated into various languages. On the Loan Office certificates, see paper by H. Hall in *Amer. Hist. Rec.*, iii. 356. For the loans in Europe, see

the *Secret Journals; Dip. Corres.*, ix. 199; xi. 291; lives of Franklin and Washington; on Laurens's mission, *Dip. Corres.*, ix. 195–249; Hamilton's *Republic*, ii. 150; *John Adams's Works*, vii. 599; Hamilton's *Writings*, i. 116, 150, 223; Jefferson's financial diary, by John Bigelow, in *Harper's Mag.*, lxx. 534; and the references in Winsor's *Handbook*, p. 243. Respecting counterfeiting, see Force's *Amer. Archives*, 5th series, i. 710, and *N. H. State Papers*, viii.

Robert Morris became Superintendent of Finance Feb. 20, 1781. The only biographical accounts of Morris are David Gould's *Life of Robert Morris* (Boston, 1834); C. H. Hart's *Robert Morris, the Financier of the Amer. Rev.* (Philad., 1877); a life in Hunt's *Amer. Merchants;* Michael Nourse's in *Banker's Mag.*, Feb., 1860; W. B. Reed's in *N. Amer. Review*, vol. xxxiii.; A. S. Bolles in the *Penn. Monthly*, Oct., 1878; Potter's *Amer. Monthly*, Dec., 1775, — none of them at all adequate. The Treasury issued in 1780 *Statements of the Receipts and Expenditures of Public Monies during the Administration by Robert Morris; with other extracts and accounts from the public records, made out by the Register of the Treasury.* In 1785 appeared in folio at Philadelphia *A Statement of the Accounts of the U. S. of Amer., 1781–84.* On May 26, 1781, Morris presented a plan of a bank of the United States, but it was then delayed (*Journals of Congress*, iii. 624). Circulars were sent to secure subscriptions (*Sparks MSS.*, xlix. vol. iii.).

On Morris's system, see *Dip. Corres.*, xi. 347, 431; *John Adams's Works*, ix. 609; *Penna. Archives*, vol. ix.; Sparks's *Washington*, viii. 136; Custis's *Recol. of Washington;* Bancroft, x. 566; Franklin, ix. 590; and *Poole's Index*, p. 872. For Morris's letters, see *Hist. Mag.*, June, 1862; *Mass. Hist. Soc. Proc.*, April, 1860, p. 12. Various letters sent to William Whipple, of New Hampshire, are among the *Charles Lowell MSS.* in the Mass. Hist. Soc. library. — ED.]

Edward J. Lowell.

NOTES.

A. A List of Treaties, Conventions, and Declarations concerning the American Revolution and the Armed Neutrality.

*** This list includes only documents of an international character. Acts of Parliament and resolutions of Congress have been inserted only where they seemed addressed rather to a foreign state than to the subjects of the power from which they emanated. Instructions to cruisers and privateers have, however, been included because the operations conducted in pursuance of them concern the subjects of foreign powers. A few treaties of an earlier date than 1776 have been prefixed to the list on account of their bearing on the diplomacy of the period of the Revolutionary War. The collections cited in this list are the following: —

Albedyhll, Baron d'. — *Nouveau Mémoire, ou précis historique sur l'association des puissances neutres connue sous le nom de la neutralité armée, etc.* Stockholm, 1798. (Cited by Bergbohm.)

Annual Register, London.

Bergbohm, Carl. — *Die Bewaffnete Neutralität 1780–1783.* 1 vol. 8°. Berlin, 1884.

Cantillo, Alejandro del. — *Tratados Convenios y Declaraciones de Paz, etc.* 1 vol. Madrid, 1843.

Chalmers, George. — *A collection of treaties between Great Britain and other powers.* 2 v. 8°. Lond., 1790.

Cussy. See Martens.

Diplomatic Correspondence *of the Rev. War. Ed. by Jared Sparks.* 12 vols. 8°. Boston, 1829–1830.

Dohm, C. W., Von. — *Denkwürdigkeiten meiner Zeit von 1778–1806.* 5 vols. Lemgo and Hannover, 1814–19 (cited by Bergbohm), and his *Materialien für die Statistik, etc.* Lemgo, 1781–1782. (Cited by Bergbohm.)

Elliot, Jonathan. — *The American diplomatic code, embracing a collection of treaties and conventions between the United States and foreign powers: from 1778 to 1834. With an abstract of judicial decisions, on points connected with our foreign relations. Also, a diplomatic manual, containing a summary of the law of nations, and other diplomatic writings on questions of international law.* 2 vols. Washington, 1834.

Flassan. — *Histoire generale et raisonnée de la Diplomatie française, etc.* 6 vols. 8°. Paris, 1809.

Force, Peter. — *American Archives.* 4th Series. 6 vols. 4°. Washington, 1837–46.

HENNINGS, A. — *Sammlung von Staatsschriften, etc. 1776–1783.* 2 vols. Altona, 1784–5. (Bergbohm.)

JENKINSON, Rt. Hon. Charles. — *A collection of treaties, etc. . . . between Great Britain and other powers, from . . . 1648 to . . . 1783.* 3 vols. 8°. London, 1785.

JOURNALS OF CONGRESS.

KAPP, Friedrich. — *Der Soldatenhandel deutscher Fürsten nach Amerika.* 1st ed., Berlin, 1864; 2d ed., 1874.

KOCH. — *Histoire abrégée des Traités de Paix, etc., ouvrage refondu, augmenté, continué . . . par* F. Schoell. 15 vols. 8°. Paris, 1817–18.

MALMESBURY. — *Diaries and correspondence of James Harris, first Earl of M.* 4 vols. 8°. London, 1844.

MARTENS, Georges Frédéric de. — *Recucil des principaux Traités d'alliance, etc., depuis 1761 jusqu'à présent.* The series of treaties of Martens and his successors is as follows (all published at Göttingen, 8°): *Recueil*, 1st edition, 7 vols. (1791–1801). *Supplément*, 8 vols. (1802–1820). (The supplement contains many treaties earlier than 1761.) This first edition and the first four volumes of the supplement have nearly the same contents as the *Recueil*, 2d edition, 8 vols. (1817–35). Then follow *Nouveau Recueil*, 16 vols. (1817–1841), containing treaties from 1808 to 1839 (with second parts to vols. vi., vii. and xvi.); *Nouveaux Supplémens*, 3 vols. (1839–42), containing treaties from 1761 to 1839; *Nouveau Recueil Général*, 20 vols. (1843–75), containing treaties from 1840 to 1875; (the first 13 volumes of this series sometimes cited as *Murhard*, the last 7 as *Samwer*;) *Nouveau Recueil Général, II Série*, 8 vols. (1876–83); and *Indexes*, 3 vols. (1837, 1875, 1876).

This great collection has been abridged, under the title *Recueil manuel et pratique de Traités, Conventions et autres actes diplomatiques*, by Baron Ch. de Martens and Baron Ferd. de Cussy; 7 vols. (Leipzig, 1846–57), with a *II Série* by F. H. Geffcken, 2 vols. (1885–7), containing treaties from 1857 to 1878.

See also G. F. de Martens' *Cours diplomatique, ou tableau des relations extérieures des puissances de l'Europe, etc.*, 3 vols. 8° (Berlin, 1801), and Ch. de Martens' *Causes célèbres du Droit des Gens*, 5 vols. 8° (Leipzig, 1858–61), and his *Nouvelles causes célèbres*, 2 vols. (Leipzig, 1843), both of which contain chapters on the intervention of France and the Armed Neutrality.

The references in this list are to the *Recueil*, 1st edition, when not otherwise stated. Almost all the same documents may be found in the 2d edition, and some of them are repeated in the abridgment of De Martens and De Cussy, the *Causes célèbres* and the *Nouvelles Causes*. It has been thought needless to multiply references to the various divisions of the series.

PARLIAMENTARY REGISTER. 17 vols. Almon, London, 1775–1780.

SECRET JOURNALS *of the acts and proceedings of Congress.* 4 vols. 8°. Boston, 1820–1821.

STATUTES AT LARGE OF GREAT BRITAIN.

TÉTOT. — *Repertoire des Traités de Paix, etc.* 2 vols. large 8°. Paris, 1876.

TREATIES AND CONVENTIONS *concluded between the United States of America and other powers, etc.* (41st Cong., 3d session, Senate. Ex. doc. No. 36). 1 vol. 8°. Washington, 1871. (Referred to as T. & C.)

WENCK, Frid. Aug. Guil. — *Codex juris gentium recentissimi, etc., 1735–1772.* 3 vols. Leipzig, 1781, 1788, 1795.

ZACHRISSON. — *Sveriges underhandlingar on beväpned neutralitet aren, 1778–1780.* Upsala, 1863. (Cited by Bergbohm.)

1674, December 1. *Great Britain — Netherlands.* Marine treaty. (Chalmers, i. 177.)

1675, December 30. *Great Britain — Netherlands.* Explanatory declaration of marine treaty. (Chalmers, i. 189.)

1678, March 3. *Great Britain — Netherlands.* Defensive alliance. (Jenkinson, i. 213.)

1713, Mar. 31. / April 11. *France — Great Britain.* Treaty of Utrecht. (Jenkinson, ii. 5; Chalmers, i. 340.)

1713, Mar. 31. / April 11. *France — Great Britain.* Treaty of navigation and commerce (of Utrecht). (Jenkinson, ii. 40; Chalmers, i. 390.)

1755, September 30. *Great Britain — Russia.* Defensive alliance and subsidies. (Wenck, iii. 75.)

1761, August 15. *France — Spain.* Family compact. (Martens, i. 1.)

1763, February 10. *Great Britain — France — Spain.* Treaty of Paris. (Martens, i. 33; Annual Register, 1762, 233.)

1766, June 20. *Great Britain — Russia.* Treaty of commerce and navigation. (Martens, i. 141.)

1776, January 9. *Great Britain — Brunswick.* Treaty, Troops, Subsidies. (Martens, ii. 540; *Parl. Reg.*, iii. 287; Kapp's *Soldatenhandel*, 1st ed., 234; Force, vi. 271.)

1776, January 15. *Great Britain — Hesse Cassel.* Treaty, Troops, Subsidies. (Martens, ii. 545; *Parl. Reg.*, iii. 295; Kapp's *Soldatenhandel*, 1st ed., 238; Force, vi. 273.)

1776, February 5. *Great Britain — Hesse Hanau.* Treaty, Troops, Subsidies. (Martens, ii. 572; *Parl. Reg.*, iii. 300; Force, vi. 276.)

1776, April 3. *United States.* Instructions to privateers. (Martens, vi. 178; *Journals of Congress*, April 3, 1776.)

1776, April 20. *Great Britain — Waldeck.* Treaty, Troops, Subsidies. (*Parl. Reg.*, iii. 504; Force, vi. 356.)

1776, April 26. *Great Britain — Hanau.* Ulterior convention, Artillery. (Force, vi. 358.)

1776, May 2. *Great Britain.* Instructions to ships of war. (Hennings, ii. 19, 23; so cited in Bergbohm, 271.)

1776, June 15. *United States.* Congress asks money of France. (*Secret Journals*, ii. 168.)

1776, July 4. *United States.* Declaration of Independence. (Martens, ii. 580, and elsewhere.)

1776, October 4. *United States.* Articles of Confederation. (Martens, ii. 586; *Annual Register*, 1776, 264; *American Constitutions*, 7.)

1776, December 4. *Great Britain — Hesse Cassel.* Convention, Chasseurs, Subsidies. (*Parl. Reg.*, vi. 152.)

1777, February 1. *Great Britain — Anspach-Bayreuth.* Treaty, Troops, Subsidies. (*Parl. Reg.*, vii. 44.)

1777, February 10. *Great Britain — Hesse Hanau.* Convention, Chasseurs, Subsidies. (*Parl. Reg.*, vii. 49.)

1777, February 20. *Great Britain.* Act enabling merchant vessels to take prizes. (*Statutes at Large*, 17 Geo. III, c. 7; Martens, iv. 301.)

1777, March 27. *Great Britain.* Instructions to privateers. (Hennings, ii. 27, 35; so cited by Bergbohm, 271.)

1777, October. *Great Britain — Anhalt-Zerbst.* Treaty, Troops, Subsidies.

1777, November 21. *United States.* Instructions of commissioners in Paris to privateers. (Martens, iv. 196.)

1778, *Great Britain.* 17 Geo. III, c. 40; 18 Geo. III, c. 15. Prizes. (*Statutes at Large.*)

1778, February 6. *United States — France.* Treaty of amity and commerce. (Martens, ii. 685; T. & C., 244; *Secret Journals*, ii. 59, with 11th and 12th articles as at first agreed on. These articles are printed separately in Martens, vii. 51, and in *Dip. Corr.*, i. 157 *n.*)

1778, February 6. *United States — France.* Treaty of alliance. (Martens, ii. 701; T. & C., 241; *Secret Journals*, ii. 82; [*Gent. Mag.*, Feb., 1779; Ramsay's *Rev. in So. Carolina*, i. 378; Du Buisson's *Abrégé de la revolution de l'Amérique, Angloise*, Paris, 1778; Bancroft Davis's *Notes on the Treaties of the U. S.* It was also printed in quarto in Philadelphia in 1778.) — Ed.]

1778, February 6. *United States — France.* Secret articles of treaty. (T. & C., 254; *Secret Journals*, ii. 88.)

1778, February (?). *Great Britain.* Conciliatory acts. 18 George III, c. 11, 12, 13. (*Statutes at Large.*)

1778, March 13. *France.* Declaration to Great Britain of treaties with United States. (*Parl. Reg.*, x. 47; Flassan, vi. 158; Martens, *Causes célèbres*, iii. 171.)

1778, March 28. *France.* Order concerning prizes. (Martens, iv. 306.)

1778, May 9. *United States.* Proclamation of Congress concerning neutral vessels. (Martens, iv. 197; *Journals of Congress*, May 9, 1778.)

1778, June 24. *France.* Order concerning privateers and prizes. (Martens, iv. 308.)

1778, July 26. *France.* Proclamation concerning neutral vessels. (Martens, iv. 198.)

1778, July 26. *United States — France.* Convention concerning "droit d'aubaine." (*Mercure, h. et pol.*, 1778, ii. 268. So cited in Martens, *Cours diplomatique*, i. 328, where a "Déclaration du Roi" of the same date on the same subject is also cited as being found in *Commentaire sur l'ordonnance de 1681 par M.....*, ii. 494.)

1778, August 1. *Tuscany.* Regulation concerning navigation and commerce. (Martens, iv. 204.)

1778, August 5. *Great Britain.* Instructions to privateers. (Hennings, iii. 44, 51; cited in Bergbohm, 272.)

1778, September 1. *United States — France.* Declarations repealing 11th and 12th articles of treaty of commerce (see Feb. 6, 1778). (*Dip. Corr.*, i. 432; Martens, vii. 51; T. and C., 247.)

1778, September 18. *Hamburg.* Regulation concerning navigation and commerce. (Martens, iv. 216.)

1778, September 19. *Two Sicilies.* Edict concerning navigation and commerce. (Martens, iv. 226.)

1778, September 27. *France.* Regulation concerning prizes taken into ports of the United States and of France. (Martens, iv. 313.)

1778, October 22. *United States.* Letter of Congress recommending Lafayette to Louis XVI. (*Secret Journals*, ii. 124.)

1778, October 30. *Spain.* Declaration concerning French commerce during the war. (*Mercure, h. et pol.*, 1778, ii. 624; so quoted in Martens, *Cours diplomatique*, i. 53.)

1778, December 15. *Great Britain.* Additional instructions to privateers. (Hennings, ii. 59; cited in Bergbohm, 273.)

1778, December 15. *Great Britain.* 18 Geo. III, c. 15. Prize goods. (*Statutes at Large.*)

1779. *France — Great Britain.* Explanation of motives, with answer (by E. Gibbon) and reply. (Martens, *Causes célèbres*, iii. 188.)

1779, March 4. *Papal States.* Edict concerning navigation and commerce. (Martens, iv. 232.)

1779, March. *Sweden.* Ordinance concerning navigation and commerce. (Martens, iv. 240.)

1779, April 12. *France — Spain.* Treaty of alliance against England. (Del Cantillo, 552. A summary of the treaty in English is among the Sparks MSS., no. 92.) [See note to the Critical Essay of Chapter II, *post.* — ED.]

1779, April. *Russia.* Declaration to England and France. (Albedyhll, 49; so cited in Bergbohm, 274.)

1779, May 3. *Netherlands.* Placard forbidding privateering under foreign flags. (Martens, iv. 242.)

1779, May 7. *Sweden.* Declaration to England and France. (Zachrisson, 65; so cited in Bergbohm, 275.)

1779, June 15. *France.* Order concerning prizes retaken. (Martens, iv. 318.)

1779, June 15. *United States.* Congress congratulates Louis XVI on the birth of a princess, and asks for portraits and for supplies. (*Secret Journals*, ii. 166.)

1779, June 16. *Spain.* Declaration of war against England. (Dohm, iii. 7; Hennings, i. 43; so cited in Bergbohm, 275.)

1779, June 23. *Great Britain.* Privateers against Spain. (Hennings, i. 47; cited in Bergbohm, 275.)

1779, July 1. *Genoa.* Edict concerning navigation and commerce. (Martens, iv. 244.)

1779, July 1. *Spain.* Rules concerning privateers. (Martens, iv. 329.)

1779, September 9. *Venice.* Edict concerning navigation and commerce. (Martens, iv. 254.)

1779, November 5. *Great Britain.* Letter of George III to Catherine II. (Malmesbury, i. 264.)

1779, November 8. *France.* Order concerning prizes taken into foreign ports. (Martens, iv. 319.)

1779, November 8. *Great Britain.* 19 George III, c. 5. Prizes. (*Statutes at Large.*)

1779, November 13. *France.* Modification of proclamation concerning neutral vessels. (Martens, iv. 199 *n.*)

1780, February 12. *Turkey.* Declaration of neutrality. (Martens, iii. 270.)

1780, February 28. / March 10. *Russia.* Declaration to belligerents of ARMED NEUTRALITY. (Martens, ii. 74; *Annual Register*, 1780, 347.)

1780, March 12. *Great Britain — France.* Cartel for exchange of prisoners. (Martens, iv. 276; additional article, 294.)

1780, March 13. *Spain.* Order regulating navigation of neutrals. (Martens, iv. 268.)

1780, March 21. *Great Britain.* Memorial to the Netherlands, claiming succor, etc. (*Annual Register*, 1780, 342.)

1780, April 3. *Russia.* Memorial to the Netherlands. (*Annual Register*, 1780, 346.)

1780, March 25. / April 5. *Sweden.* Asks explanations of Russian declaration. (Martens, iv. 354; *Annual Register*, 1780, 354.)

1780, April 13. *Holland and West Friesland.* Resolutions concerning declaration of neutrality. (Martens, iv. 350.)

1780, April 17. *Great Britain.* Declaration to Netherlands denouncing neutral rights secured by treaties. (Martens, ii. 76; *Annual Register*, 1780, 345.)

1780, April 18. *Spain.* Answer to Russian declaration of neutrality. (Martens, iv. 348; *Annual Register*, 1780, 350.)

1780, April 19. *Great Britain.* Instructions to privateers concerning Dutch vessels. (Hennings, ii. 62; cited in Bergbohm, 279.)

1780, April 23. *Great Britain.* Answer to Russian declaration of neutrality. (Martens, iv. 345; *Annual Register*, 1780, 349.)

1780, April 24. *Netherlands.* Resolutions in answer to Russian declaration of neutrality. (Martens, iv. 352.)

1780, April 25. *France.* Answer to Russian declaration of neutrality. (Martens, iv. 346; *Annual Register*, 1780, 349.)

1780, April (?). *Portugal.* Answer to Russian declaration of neutrality. (Dohm, iv. 244; cited in Bergbohm, 279.)

1780, May 8. *France.* Ordinance concerning neutral vessels. (Martens, iv. 347 *n.*)

1780, May 8. *Denmark.* Declaration of neutrality of the Baltic. (Martens, ii. 84.)

1780, May 8./19. *Russia.* Ordinance concerning merchantmen. (Martens, ii. 79; *Dip. Corr.*, v. 271.)

1780, May 25. *France.* Answer to Denmark. (Martens, vi. 202.)

1780, April 18./29. *Russia.* Explanation to Sweden. (Martens, iv. 355; *Annual Register*, 1780, 355.)

1780, June 22. *Great Britain — France.* Additional cartel for exchange of prisoners. (Martens, iv. 294.)

1780, July 4. *Great Britain — Denmark.* Convention to define contraband. (Martens, ii. 102.)

1780, July 8. *Denmark.* Declaration to belligerents. (Martens, iv. 360; *Annual Register*, 1780, 352.)

1780, June 28. / July 29. *Russia — Denmark.* Convention, marine. (Martens, ii. 103; separate articles, Martens, iv. 357.)

1780, July 21. *Sweden.* Declaration to belligerents. (Martens, iv. 365; *Annual Register*, 1780, 353.)

1780, July 25. *Great Britain.* Answer to Denmark. (Martens, vi. 203.)

1780, July 27. *France.* Answer to Denmark. (Martens, iv. 363.)

1780, July 21. / August 1. *Russia — Sweden.* Convention, marine. (Martens, ii. 110; separate articles, Martens, iv. 364.)

1780, August 3. *Great Britain.* Answer to Sweden. (Martens, iv. 368.)

1780, August 4. *France.* Answer to Sweden. (Martens, iv. 366.)

1780, August 7. *Spain.* Answer to Denmark. (Martens, vi. 204.)

1780, August 30. *Portugal.* Order concerning privateers. (Martens, iv. 295.)

1780, September 7 (?). *Denmark.* Declaration acceding to convention between Russia and Sweden. (Martens, iv. 371.)

1780, September 9. *Sweden.* Declaration acceding to convention between Russia and Denmark. (Martens, iv. 369.)

1780, October 5. *United States.* Resolution of Congress acceding to armed neutrality. (*Journals of Congress*, October 5, 1780.)

1780, October 27. / November 7. *Russia.* Notification to belligerents of the accession of Denmark and Sweden to the Armed Neutrality. (Martens, iv. 372.)

1780, November 10. *Great Britain.* Memorial to Netherlands concerning papers taken in Mr. Laurens's trunk (with copies of the papers). (*Annual Register*, 1780, 356, 373.)

1780, November 16. *Netherlands.* Memorial to Great Britain concerning English insults and violence on the island of St. Martin. (*Annual Register*, 1780, 374.)

1780, November 20. *Netherlands.* Resolutions concerning accession to armed neutrality. (Martens, iv. 375.)

1780, November 22. *United States.* Memorial to king of France, requesting a loan. (*Secret Journals*, ii. 343.)

1780, December 12. *Great Britain.* Memorial to Netherlands. (*Annual Register*, 1780, 375.)

1780, December 12. *France.* Answer to Russian notification. (Martens, iv. 373.)

1780, December 20. *Great Britain.* Manifesto against the Netherlands. (*Annual Register*, 1780, 376.)

1780, December 20. *Great Britain.* Order in Privy Council concerning privateers against the Netherlands. (Hennings, i. 71; Dohm, iv. 136; cited in Bergbohm, 285.)

1780, December 21. *Great Britain.* Instructions to privateers against the Netherlands. (Hennings, ii. 65; cited in Bergbohm, 285.)

1780, December 21 (?). *Great Britain.* Answer to Sweden. (Martens, iv. 368.)

1780, December 21. *Great Britain.* 20 Geo. III, c. 9. Prize goods. (*Statutes at Large.*)

1780, December 24. / 1781, January 3. *Netherlands.* Act acceding to armed neutrality. (Martens, ii. 117; separate act joined to accession, Martens, iv. 378.)

1781, January 12. *Netherlands.* Resolutions concerning succor to be asked. (Martens, iv. 382.)

1781, January 12. *Netherlands.* Placard concerning privateers. (Martens, iv. 342.)

1781, January 13. *Netherlands.* Instructions to privateers. (Martens, iv. 343.)

1781, January 26. *Netherlands.* Ordinance concerning war. (Martens, iv. 410.)

1781, January (?). *Netherlands.* Declaration concerning accession to armed neutrality. (Martens, iv. 379.)

1781, January (?). *Netherlands.* Declaration to belligerents of accession to armed neutrality. (Martens, iv. 381.)

1781, February 15. *Great Britain.* Additional instructions to privateers. (Hennings, ii. 105; cited in Bergbohm, 287.)

1781, February 17–28. *Sweden.* Memorial to Russia about the Netherlands. (Martens, iv. 394.)

1781, February 28. *Netherlands.* Memorial to Sweden asking help of allies. (Martens, iv. 389; *Annual Register*, 1781, 311.)

1781, March 10. *France.* Letter of Louis XVI to Congress of United States promising help. (*Secret Journals*, ii. 408.)

1781, March. *Russia.* Rescript. (Martens, iv. 399.)

1781, March 12. *Netherlands.* Counter-manifesto to England. (Hennings, i. 73; cited in Bergbohm, 287; C. de Martens, *Nouv. Causes*, i. 190.)

1781, April 20. *Great Britain.* Additional instructions to privateers. (Hennings, ii. 104; cited in Bergbohm, 287.)

1781, April 30. *Prussia.* Declaration and ordinance concerning navigation and commerce. (Martens, iv. 418.)

1781, May 1. *France — Netherlands.* Convention concerning prizes retaken. (Martens, ii. 127.)

1781, May 8. / 19. *Russia — Prussia.* Convention to maintain the liberty of commerce, with separate articles. (Martens, ii. 130.)

1781, July 9. *United States.* Articles of confederation ratified and adopted. (See October 4, 1776.)

1781, July 10. *Empire — Russia.* Treaty concerning armed neutrality. (Martens, iv. 404.)

1781, October 9. *Empire.* Accession to armed neutrality. (Martens, ii. 171.)

1781, October 19–30. *Russia* accepts the accession of the Empire. (Martens, ii. 174.)

1781, November 3. *Prussia.* Further declaration concerning navigation and commerce. (Martens, iv. 424.)

1781, December 8. *Prussia.* Further orders concerning navigation and commerce. (Martens, iv. 427.)

1781, December 12. *Empire.* Order concerning navigation and commerce. (Martens, iv. 437.)

1781, December 12 (?). *Great Britain.* 21 Geo. III, c. 5. Prizes. (*Statutes at Large.*)

1782, January. *Great Britain.* An act to enable his Majesty to make peace with the United States (22 George III, c. 46). (Martens, iv. 440.)

1782, May 2. *Denmark.* Acceptance of convention between Russia and Prussia. (Goerz, 112, cited in Bergbohm, 289.)

1782, July $\frac{1.}{24.}$ } *Portugal.* Accession to armed neutrality. (Martens, ii. 208.)

1782, July 16. *United States — France.* Contract concerning money borrowed. (Martens, ii. 212; T. & C., 254; *Secret Journals*, iii. 273.)

1782, October 8. *United States — Netherlands.* Treaty of amity and commerce. (Martens, i. 242; T. & C., 607; *Secret Journals*, iii. 290.)

1782, October 8. *United States — Netherlands.* Convention concerning prizes retaken. (Martens, i. 278; T. & C., 616; *Secret Journals*, iii. 313.)

1782, November 30. *United States — Great Britain.* Treaty of Peace, provisional. (Martens, i. 308; T. & C., 309; *Secret Journals*, iii. 330; separate article, T. & C., 312.)

1782. *Great Britain.* 22 George III, c. 10. For better detaining and more easy exchange of prisoners. (*Statutes at Large.*)

1782. *Great Britain.* 22 George III, c. 25. Act to prohibit ransoming vessels. (Martens, iv. 304; *Statutes at Large.*)

1782. *Great Britain.* 22 George III, c. 46. To enable his Majesty to conclude peace or truce with the colonies in North America. (*Statutes at Large.*)

1783, January 20. *United States — Great Britain.* Armistice. (T. & C., 312.)

1783, January 20. *Great Britain — France.* Treaty of Peace, preliminary. (Martens, i. 315.)

1783, January 20. *Great Britain — Spain.* Treaty of Peace, preliminary. (Martens, i. 323.)

1783, February 10–21. *Two Sicilies.* Act acceding to armed neutrality. (Martens, iii. 274.)

1783, February 25. *United States — France.* Contract. (T. & C., 258.)

1783, April 3. *United States — Sweden.* Treaty of amity and commerce, with separate articles. (Martens, i. 328; T. & C., 799; *Secret Journals*, iii. 369.)

1783, April 11. *United States.* Proclamation of cessation of hostilities. (*Secret Journals*, iii. 323.)

1783, June 11. *United States.* Ceremonial for the reception of foreign ministers. (Martens, iv. 453; *Secret Journals*, iii. 365.)

1783, August 13. *United States.* Congress thanks Louis XVI for portraits. (*Secret Journals*, iii. 462.)

1783, September 2. *Great Britain — Netherlands.* Treaty of Peace, preliminary. (Martens, i. 457.)

1783, September 3. *Great Britain — France.* Peace of Versailles, with separate articles, declaration and counter-declaration. (Martens, i. 462.)

1783, September 3. *Great Britain — Spain.* Peace of Versailles, with separate articles, declaration and counter-declaration. (Martens, i. 484.)

1783, September 3. *United States — Great Britain.* Treaty of Paris. (Martens, i. 497; T. & C., 314; *Secret Journals*, iii. 433.)

1784, May 20. *Great Britain — Netherlands.* Treaty of Paris. (Martens, i. 520.)

B. Prisoners of War. — [The procurement of the British recognition of belligerent rights in the exchange of prisoners was one of the objects of the American commissioners in Paris. The instructions of Germain to Howe, Feb. 1, 1776, authorizing him to conduct exchanges without the king's name being used, or the royal honor and dignity being compromised, is among the Carleton Papers (*Mass. Hist. Soc. Proc.*, v. 346 *a*), and the letter to Carleton, Aug. 22, 1776, is in the State Paper Office, "Quebec series, xv., 1776," and is noted in Brymner's Reports on the Dominion Archives. The steps by which the British government came to consent to an exchange of prisoners, with an implied reservation of the rights of the sovereign over traitors, which might be exercised even after temporary and expedient acts of exchange arranged by commanding generals, are traced in a report on the subject, made by George T. Curtis, for a committee of the Mass. Hist. Soc. (*Proceedings*, v. 325) in December, 1861, when the United States government was considering similar measures in respect to prisoners of war from the seceded States. Cf. on the same subject George Bancroft's letter, dated Feb. 14, 1862, published by the N. Y. Hist. Society.

The subject is further illustrated in Sparks's *Washington*, i. 307; iv. 547, etc.; v. 306, 311, 353, 354, 363, 518; vi. 508; vii. 3; *Hist. Mag.*, vi. 96; viii. 200; various papers in Force's *Amer. Archives; Journals of Congress*, i. 349, 403; ii. 494; iii. 129, 422; iv. 70, 79; *Secret Journals*, i. 174; in the Haldimand Papers (Brymner's *Calendar*, and Brit. Mus. MSS., 21,841–43); Graydon's *Memoirs*, ch. 8; Hamilton's *Repub. U. S.;* Lossing's *Field-Book*, ii. 865; Moore's *Diary of the Rev.*, index, etc.

Stormont, the British minister in Paris, refused in 1777 to listen to Franklin's proposals for an exchange of prisoners (Sparks's *Franklin*, ix. 166); but the activity of the American cruisers soon accumulated in the commissioners' hands so large numbers of British sailors that the English government was forced to treat.

The *Journals of Congress* disclose various inquiries and reports about the treatment of prisoners in British hands (ii. 376, 413; iii. 562, 654, etc.), whether in the prison-ships, in the several sugar-houses and other

buildings in New York city used as places of confinement (see views of them in Lossing's *Cyclo. U. S. Hist.*, ii. 8. "Prisons," and Valentine's *N. Y. City Manual*, 1857, p. 256), or in the prisons of England. For details and views of treatment in such confinement, see Bigelow's *Franklin* (ii. 403, 411); Irving's *Washington* (iii. 19); Ethan Allen's *Captivity; Memoirs* of Andrew Sherburne; *Adventures* of Ebenezer Fox; several reprints and recitals published by C. I. Bushnell in N. Y., 1863–66, including the experiences of Levi Hanford, John Blatchford, Abraham Leggett, and Ebenezer Fletcher; *N. E. Hist.-Geneal. Reg.*, 1869, p. 103; Mrs. Ellet's *Domestic Hist. of the Rev.* (106, 116); George Taylor's *Martyrs of the Rev.* (1855); Onderdonk's *Suffolk and King's Counties*, etc. Congress (Sept. 29, 1783, *Secret Journals*, iii. 397, 402) voted to thank the Rev. Dr. Wren for his attention to American prisoners in England.

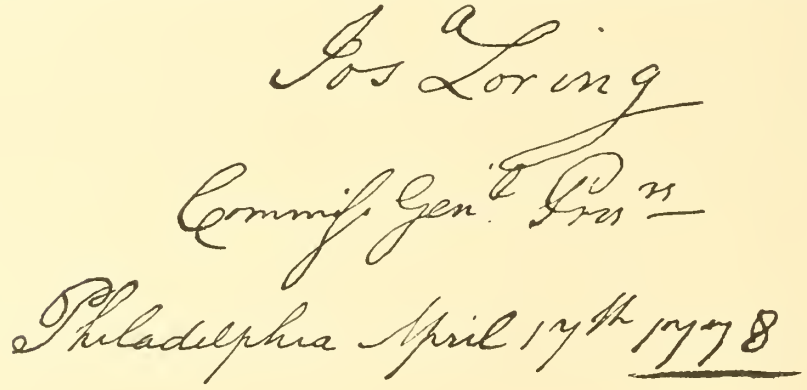
Respecting the Jersey and other prison-ships at New York, we have several personal narratives of those who experienced confinement on board: Thomas Dring's *Recollections of the Jersey Prison-Ship*, edited by Albert G. Greene (Providence, 1829, — reprinted, 100 copies, Providence, 1865), and re-edited by H. B. Dawson (Morrisania, 1865), with a view and plan of the ship, often re-engraved; Thomas Andros's *Old Jersey Captive, 1781* (Boston, 1833, — 80 pages); Philbrook's narrative in the *R. I. Hist. Soc. Proc.*, 1874-75, p. 75; the *Adventures of Christopher Hawkins*, in the Bushnell Series (New York, 1864).

Henry R. Stiles published two volumes of a Wallabout Prison-Ship Series (80 copies each), the first being *Letters from the Prisons and Prison-Ships of the Rev., with Notes* (New York, 1863, — 49 pages), and the second a reprint (New York, 1865), with notes, of an *Account of Interment of the Remains of Amer. Patriots who perished on board the Prison-Ships during the Amer. Rev.* (orig. ed., 1808).

The history of the prison-ships is given in Stiles's *Brooklyn*, with a map (i. 332) showing the positions of the ships in Wallabout Bay, 1776–83. For other details, see Dunlap's *New York*, ii. ch. 10; *Harper's Monthly*, xxxvii. 187; *Hist. Mag.*, vi. 147; x. Suppl., 7; *N. E. Hist.-Geneal. Reg.*, xxxii. 42, 395; Lossing in *Field-Book* and in *Potter's Amer. Monthly*, vi. 1; *National Mag.*, iv. 205.

Respecting the use of an old disused copper mine at Simsbury, in Connecticut, for the confinement of loyalists and prisoners by the Americans, see R. H. Phelps's *Newgate of Conn.* (1860, 1876); *Memorial Hist. of Hartford County*, ii. 80; *Mag. Amer. Hist.*, xi. 247; C. B. Todd in *Lippincott's Mag.*, xxvii. 290; *N. E. Mag.*, March, 1887; and the profile of the mine given in the *Political Mag.*, ii. 596. Upon the fleet-prison at Esopus on the Hudson, see Jones's *New York*, i. App., p. 705.

The nearness of Connecticut to the headquarters of the opposing armies during a large part of the war rendered that State the most convenient place of confinement for a large part of the British prisoners in American



hands, and the *Trumbull MSS.* (Mass. Hist. Society; cf. Hinman's *Conn. during the Rev.*, p. 572, etc.) show more or less correspondence between the commissaries on both sides. The chief commissary on the British side during a large part of the war was Joshua Loring. (Cf. Jones's *New York*, ii. 423.) The local records will of course yield material of subsidiary interest. Cf., for instance, *N. H. State Papers*, viii. 367, 426, 498; the *Report* on the Mass. Archives, 1885, pp. 25, 26; and the index to Goodell's *Prov. Laws of Mass.*, vol. v., and the indexes of the *N. Y. Coll. Docs.*, the *Penna. Archives*, etc. — Ed.]

CHAPTER II.

THE PEACE NEGOTIATIONS OF 1782–1783.

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WHEN, in February, 1779, Gérard had urged upon Congress the appointment of a commissioner to take part in possible negotiations for peace, it became necessary for the first time for Congress to formulate conditions beyond the main demand of independence. The first drafting of such instructions to a commissioner — for it took this shape — was entrusted to a committee, consisting of Gouverneur Morris, Thomas Burke of North Carolina, Witherspoon of New Jersey, Samuel Adams, and Merriwether Smith of Virginia. They suggested, as an ultimatum for boundaries, the confinement of Canada within such limits as England had insisted upon when Canada was a French possession, with the line of the Mississippi on the west, and the limits of Georgia upon the Floridas on the south. They also determined, as points to be insisted upon, the right to fish and cure fish on the coasts of Newfoundland; the free navigation of the Mississippi to the southern limits of their bounds upon it, with a free port below; and, if the allies were agreed, the prolongation of the war till Nova Scotia should be conquered. On the other hand, they would give up Nova Scotia if the fisheries were secured, or they would exchange it for the Bermudas. They would also, if necessary, agree to forego commerce with the East Indies, and would attempt no settlements beyond their prescribed frontiers; if they should acquire the Floridas in the negotiations, they would cede them to Spain. Further, they would consent to no temporizing truce, and if American troops assisted in the conquest of Florida, Spain should be invited to grant the United States a subsidy. These propositions were somewhat modified during the ensuing debate. Gérard was constantly impressing upon members of Congress that it was wiser to give their commissioner greater freedom, and to leave much to the generosity of Spain, whom it was necessary to conciliate, and to France, their tried friend. It was not so easy to force a conviction of such views upon Congress at large, and the debates lagged. In March Congress agreed to the bounds as proposed by the committee, being substantially, for the north, those of Canada before the passage of the Quebec bill, though a line further south, but not below the 45° of latitude, might be accepted. The eastern limit was to be the

St. John, or whatever might be decided as the farther bounds of Massachusetts in that direction. The west and south lines were to be as the committee suggested. The claim to bound on the Mississippi was the subject of question and argument at various times subsequently; but no rights of the sovereign or of the Indians were ever recognized as barring the claims of the States. The American people were held to have succeeded to all English rights, and American settlers already possessed much of the contested territory. The decision of Congress as to the southern bounds was open to other complications. Spain desired to have Florida stretch northerly to the basin of the St. Lawrence, or at least she wished to have England recognized as the owner of the region west of the Alleghanies, in order that Spain might make a conquest of it if she could. She would wrest from Great Britain the price of Gibraltar, somewhere. It was by negotiation with Spain, too, that the free navigation of the Mississippi, which Congress insisted upon, was to be determined. There was a struggle upon the fishery clause. New England contended for wider allowance; the result was a vague determination that "in no case the common right of fishing be given up." The New Englanders, under Elbridge Gerry, still contended for more determinate language, and the question of formulating the claims to the fisheries continued a long time to divide counsels, and was still an open one when the final negotiations took place. New York in all these debates held the casting vote, and she usually threw it against the larger claims of New England. The fishery claims, however, rested upon the natural rights of the States arising from their situation, upon their succession to the sovereignty previously vested for their benefit in the crown, upon their charters, and upon the equity of their enjoying a share in what they had helped to conquer. Vergennes, on the contrary, argued that the fisheries were a possession of the British crown, which America had renounced in renouncing that crown, — and Vergennes had ulterior reasons for keeping America out of the fisheries, the nursery of seamen, for he did not wish America to become a naval power. The votes of the Southern States, with the outside influence of France, finally succeeded in fashioning the clause of the instructions, as respects the fisheries, in a way that the commissioner should not claim the right as an ultimatum.[1] This

JOHN ADAMS.*

[1] [See *ante*, pp. 55, 56. — Ed.]

* [From the *European Magazine*, Aug., 1783, after an original painting owned by Edmund Jennings. See Vol. VI. p. 36. — Ed.]

was a severe blow to the New England hopes; but the Northern people got some compensation when John Adams was chosen as the commissioner for whose guidance the instructions had been formed. Adams had returned from Europe early in August on the same ship with Luzerne, and on September 27th he was chosen on this new embassy, to be guided by these instructions, the advice of the allies, and his "own discretion, in which we [Congress] repose full confidence." On the next day John Jay was chosen to proceed to Spain,[1] and to attempt, by offers of help in conquering the Floridas, to secure the free navigation of the Mississippi, and perhaps a subsidy of money from that power. Jay spent two years and a half in Spain without succeeding in drawing from Florida Blanca a single positive proposal, or even a satisfactory answer. Congress unwarrantably drew on Jay to considerable amounts, on the supposition that Spain was ready to advance him money; but the Spanish government avoided payments, and hinted at the considerations which might induce them to grant the money. Jay made up his mind that the "servile terms" of surrendering the right to navigate the Mississippi were, on his part, as much an obstacle to any treaty as the American claim was an impediment in the Spanish eyes. In spite of repeated conferences, Spain could not be induced to promise more than $14,000 for about $50,000 of bills remaining unaccepted, and Jay made himself personally liable for the difference. Meanwhile, Luzerne, in Philadelphia, was laboring with Congress to induce it to abandon the claim of navigating the Mississippi.[2] The panic which ensued upon Arnold's invasion of Virginia led Bland, a member from that State, to start the question in Congress, and, under the stress of military misfortunes, Jay's instructions were so changed that he was not to consider the claim an ultimatum. Florida Blanca was thought by Jay to have had earlier

John Jay —
President *

[1] His instructions are in Pitkin, ii. 511.

[2] [See *ante*, p. 55. — Ed.]

* [From Du Simitière's *Thirteen Portraits* (Lond., 1783). Cf. also *Heads of illustrious Americans* (London, 1783). Stuart's picture is engraved by Leney in Delaplaine's *Repository* (1815), and given in photogravure in Mason's *Stuart*, p. 205. The engraving by A. B. Durand of the likeness by Stuart and Trumbull is reproduced in the *Mag. of Amer. Hist.* Cf. Irving's *Washington*, quarto ed., vol. ix. The head of Stuart's portrait at the Jay House, Bedford, was engraved by Cornelius Tiebout, at London, April, 1795. An engraving of a bust by Frazee is in William Jay's *Life of John Jay*. The likeness given in *Harper's Monthly*, lxvi. p. 842, is not of John Jay, but of his son, Peter Augustus Jay. — Ed.]

knowledge than himself of this change of attitude, but was still as non-committal as before, and continued so. "Spain has taken four years," wrote Franklin to Jay in 1782, "to consider whether she would treat with us or not. Give her forty, and in the mean time let us mind our own business." The delay proved fortunate for the young republic. As Franklin put it, to part with the Mississippi were as if one should sell his street-door. It is now known that Florida Blanca was at the same time engaged in making offers to England to hamper and check the purposes of France and of England's "rebel subjects." [1]

When the Austro-Russian offer of mediation came, in 1781, there was again a revision of claims, which Congress had formulated as the condition of peace. France made it the occasion to say that Adams was too obstinate for a diplomat, and that he ought to be instructed to abide the advice of France, who could procure better terms than it were possible for such a headstrong commissioner to secure. Luzerne's communication to Congress was referred to a committee, consisting of Daniel Carroll of Maryland, Noble W. Jones of Georgia, Witherspoon, Sullivan, and John Mathews of South Carolina, who reported that there was no danger in leaving the negotiations to the discretion of the French government. Witherspoon tried to induce a vote abandoning the boundary clause of the instructions as an ultimatum ; but he failed. Luzerne brought all his arts into play to counteract so obstinate a refusal of confidence in France as this failure of Witherspoon implied, and his intrigues succeeded. The boundary clause was changed, so that the minister was not bound by it, and he was directed to undertake nothing without the knowledge and concurrence of France. Luzerne informed his principal that the Ohio, and even the Alleghanies, could be made satisfactory to the Americans, such was their present temper. He even insinuated that one of the States might be given up to England ; but this was too much, and the negative was decisive. He was more successful in the attempt to strengthen the hands of Vergennes : first by making Adams share his mission with others, — Jay, Franklin, Laurens, and Jefferson, who were accordingly appointed ; and then in binding them by further amendments to the instructions [2] to govern themselves by the advice

[1] [See *ante*, p. 54. — Ed.]

[2] The instructions adopted by Congress June 15, 1781, to Adams, Franklin, Jay, Laurens, and Jefferson, authorized the acceptance of the mediation proposed by the empress of Russia and the emperor of Germany, forbade any treaty of peace which should not, first, effectually secure the independence and sovereignty of the United States, according to the subsisting treaties with France ; and, second, in which the said treaties shall not be left in full force. The instructions to John Adams of Aug. 14, 1779, and Oct. 18, 1780 (Adams, iv. 339 ; *Secret Journals*, ii.), are referred to as expressing the desires and expectations of Congress ; and the instructions proceed to say : "But we think it unsafe, at this distance, to tie you up by absolute and peremptory directions upon any other subject than the two essential articles above mentioned. You are therefore at liberty to secure the interest of the United States, in such manner as circumstances may direct, and as the state of the belligerent and the disposition of the mediating powers may require. For this purpose, you are to make the most candid and confidential communications upon all subjects to the ministers of our generous ally, the king of France ; to undertake nothing in the negotiations for peace or truce, without their knowledge and concurrence ; and ultimately to govern yourselves by their advice and opinion."

and opinion of their generous ally, the king of France.[1] Luzerne attributed the success of these proposals to the absence of Samuel Adams and the New York delegates, and to the rupture of the New England league, for which he was indebted to John Sullivan of New Hampshire. He implies that Sullivan had received pay for his services, and suggested that it would

VERGENNES.*

be worth while to nourish Sullivan's patriotism even after his return to New Hampshire.

Vergennes was pleased with Luzerne's success, and bade him say to Con-

[1] [*Life and Writings of John Adams*, i. 341; vii. 349; Rives's *Madison*, i. ch. 11; *Madison Papers*, i.; Hamilton's *Hamilton;* Flanders' *Rutledge*, 596; Sparks's *Franklin*, viii. 526; ix.; *Journals of Congress*, vii.; *Dip. Corres.*, vi. 3 (from John Adams's letters). The instructions of Congress to the commissioners in Europe, June 15, 1781, are in the *Dip. Corres.*, x. 71; and those of January 7, 1782, in *Ibid.* iii. 268. Cf. Sparks's *Franklin*, ix. 128. — ED.]

* [After an engraving by Vangelisti of a painting by Antoine François Callet. It has been reproduced on a reduced scale in Doniol's *Participation de la France à l'établissement des États-Unis* (Paris, 1886), vol. i. Cf. *European Mag.*, vol. ix. (1786); *Mag. Amer. Hist.*, Jan., 1885; Gay's *Pop. Hist. U. S.*, iv. 76; *Harper's Mag.*, lxvi. 834. — ED.]

gress that in the last resort the king's opinion would settle the difficulties, and that if he did not succeed in securing for Congress all they desired the fault would be in the circumstances. There were soon signs of reaction in Congress, and it was urged that no state ever so imprudently put itself at the mercy of another. Luzerne assumed an air of indifference, and the opposition subsided. The next year (1782) there was new blood in Congress, and the fresh members attacked the scheme boldly. Hamilton and Lee were outspoken; but Madison and Witherspoon defended the instructions. The latter thought they were little more than complimentary to France. Madison said that "they were a sacrifice of national dignity, but a sacrifice of dignity to policy" with additional security to American interests. Luzerne tried to help the advocates' case by professions of entire friendship and the like, though the king, his master, as he said, might be forced to sacrifice his inclinations to necessity. We now know from Vergennes' own correspondence, what Congress did not know then, — that France had secretly assented to the desire of Spain to abridge the boundaries, the resources, and the power of America.

The season was propitious for France to force concessions from the States. The American finances were in absolute need of recruiting, and France could relieve them. The States had not been recognized by the intending mediators, and apparently France alone could present their claims to such a tribunal. But the fate of America was not to depend upon foreign mediation or the opinion of a foreign court; and the instructions which were to bind the American commissioners they found themselves compelled to disregard, for reasons which they stated to Congress, and which history has shown to be correct.

Those instructions, so ingeniously framed, so skilfully passed through Congress, and so quietly set aside, will present an interesting question to students of diplomacy when the confidential correspondence and secret papers relating to the peace negotiation, from the French and English archives, are collated and printed by the government at Washington. The entire incident will gather importance and teach a noteworthy lesson, if it shall appear that while the instructions failed in the object they were intended to accomplish, they assisted to open the eyes of the American commissioners to the dangers threatened by the policy of Paris and Madrid; that they induced a misleading confidence in the French court as to their restraining effect; and that they assisted to induce the British ministry to recognize the justice of the claims of their former colonists, and to adopt the far-sighted and manly policy which, while disappointing the hopes of the Bourbon courts, secured the greatness of the American republic.[1]

[1] Nothing in the diplomatic history of these years is more remarkable than the influence which Luzerne, while holding the views of his principal, succeeded in establishing over Congress, and the complete knowledge which his correspondence shows of its intrigues and debates (*Jay MSS.*, i. 7, etc.). Of the members under his control, Sullivan has been mentioned as probably in his pay; but his social influence with men of a higher stamp was large. In a letter dated Nov. 16, 1782 (*Ibid.* ii. 4), he describes the Pennsylvania members, Mifflin,

The surrender of Cornwallis at Yorktown on October 19, 1781, was the crowning failure which settled the fate of Lord North's ministry.[1] The voice of public opinion could no longer be stifled, and a general outcry arose against the war, which at last was echoed by Parliament.[2] General Conway, a veteran statesman who had been among the first to denounce the Stamp Act, moved on February 22, 1782, that the war be discontinued. It was a sign of the times that his motion was negatived by a majority of only a single vote;[3] and continuing his efforts, he was rewarded by a victory on March 4th, when the House agreed, without a division, to consider as enemies to the king and country all those who should further attempt the prosecution of the American war, and granted leave to bring in a bill enabling the king to make peace or truce with America.[4]

GENERAL H. S. CONWAY.*

Peters, Wilson, Fitzsimmons, and Montgomery, with all of whom, except Montgomery, he says that he has intimate connections. Another intimate friend was Livingston (*Ibid.* ii. 3), the Secretary of Foreign Affairs, who, according to Luzerne, owed his election (by a bare majority of one) to Luzerne's ascendancy. Of him Luzerne wrote, on Nov. 1, 1781: "He appreciates the share I have had in electing him. . . . We need not fear that he will let himself be influenced by the English." So congenial did he find him that when Livingston talked of resigning he used all his efforts to dissuade him. "His attachment to the alliance, his probity, and his confidence in me are such that I should be reluctant to see him resign."

[1] [For the reception of the news of Yorktown, in London, and its effect, see *ante*, Vol. VI., p. 555; and Wraxall's *Hist. Memoirs;* Walpole's *Last Journals* (vol. ii.); Macknight's *Burke* (ii. 457). Adolphus (*England*, iii. ch. 43) gives a good summary of the debates in Parliament. See also *Parliamentary Hist.*, vol. xxii.; *Life of Van Schaack*, p. 267. — Ed.]

[2] Lecky, iv. 219; Eaton, 128.

[3] Bancroft, x. 529.

[4] This bill (the "Enabling Act"), technically necessary before negotiation could begin, was not passed until June of this year. [For the character of North, beside the general histories, see J. C. Earle's *English Premiers* (London, 1871), i. ch. 6; Jesse's *Etonians;* Brougham's *Statesmen;* Macaulay's *Chatham;* Smyth's *Mod. Hist.* (33d lect., ii. 373, 443); Russell's *Mem. and Corresp. of Fox*, i. 195; his *Life and Times of Fox*, i. ch. 15; Adolphus's *George III*, iii. 345; Walpole's *George III* (ed. by Lemarchant), iv. 78; Walpole's *Last Journals* (*passim*); Macknight's *Burke*, ii. ch. 30; and Wraxall, ii. 360, in Henry B. Wheatley's combined, annotated ed. of Sir Nathaniel William Wraxall's *Historical and Posthumous Memoirs* (N. Y. and London, 1884, in 5 vols.). This edition includes the author's revised text, Mrs. Piozzi's notes, and those of Dr. Doran, intended for an edition of his own. Smyth (ii. 442) accounts Gibbon the type of man who gave most hearty support to North. The parts of Gibbon's letters bearing on the American Revolution have been grouped together in the *Mag. of Amer. Hist.*

The condition of parties at the downfall of North is described in Donne's *Corresp. of George III with North*, ii. 398, 429; in histories of England by Belsham (vii.), Mahon (vii. 136), Massey (ii. 414), Adolphus and the *Pict. Hist. England;* in Wraxall's *Hist. Memoirs*, ii. 148; G. W. Cooke's *Hist. of Party*, iii. ch. 10; Russell's *Memorials of Fox*, i. 281, and *Life of Fox*,

* [From the *European Magazine*, March, 1782. — Ed.]

Perceiving that peace was now inevitable, Lord North sent his emissaries, Digges, the American merchant, and Forth, the former secretary of legation at Paris, to sound the allies, and find out if there was any chance of dealing with them separately. Meanwhile, his position was growing more precarious. On March 15, a motion of want of confidence in the government, brought forward by one of its former supporters, Sir John Rous, was lost by a majority of only nine.[1] A similar motion was put down for March 20, but Lord North anticipated the verdict by announcing his resignation.

NORTH.*

America had everything to hope for from the administration of his successor, Lord Rockingham, who as early as 1778 had recommended severing the Franco-American alliance by acknowledging American independence,[2] and who now required, as a preliminary to accepting office, that the king should put no veto on its recognition. Fox, the new foreign secretary, had strenuously, and even extravagantly advocated American independence in every session of Parliament since 1776,[3] when he had said: "If we are reduced to the dilemma of conquering or abandoning America, I am for abandoning America." The Duke of Richmond, who took the office of master-general of ordnance, had pleaded, in 1777, after the surrender of Burgoyne, for "a peace on the terms of independence, and such an alliance or federal union as would be for the mutual interests of both countries."[4] Other warm

i. ch. 15; Fitzmaurice's *Shelburne*, iii. 129; Walpole's *Last Journals*, ii. 521.

On Conway's motion of Feb. 22, 1782, see Lyman's *Diplomacy of the U. S.*, i. 93; Walpole's *Last Journals*, ii. 505; Russell's *Mem. and Corresp. of Fox*, i. 277.

For the motion of Feb. 27th and the roll of names, see *Mass. Hist. Soc. Proc.*, May, 1866 (ix. 218). Cf. Debrett's *Parl. Reg.*, vi. 310–341; Walpole's *Last Journal*, ii. 509; Macknight's *Burke*, ii. 482. — ED.]

[1] Fitzmaurice, iii. 130.

[2] Bancroft, ix. 133, 487. [There are portraits of Rockingham in the London ed., 1801, of *Junius;* Lodge's *Portraits;* Albemarle's *Rockingham*, etc.; and for woodcuts, see *Harper's Mag.*, lxvi. 668. On the Rockingham ministry, see Albemarle's *Rockingham and his Contemporaries*, ii. 442, etc.; Fitzmaurice's *Shelburne*, iii. ch. 5; Russell's *Memorials of Fox*, i. 290, 294, and *Life of Fox*, i. 281, ii. ch. 16; Walpole's *Last Journals*, ii. 524–544; *Bancroft*, x. ch. 27; 28; Adolphus's *England*, iii. ch. 46–49; Belsham's *England*, vii. 325; *Memoirs of the Court and Cabinets of George III.* — ED.]

[3] Bancroft, ix. 143.

[4] *Ibid.* ix. 477.

* [From the London (1801) ed. of *Junius*. Dance's picture is in Lodge's *Portraits*. For a modern wood cut, see *Harper's Mag.*, lxvi. 667. For a medal, see *Pict. Hist. England*, v. 96. — ED.]

friends of America were Burke, who became paymaster-general, and Conway, the commander-in-chief. The cabinet also comprised Lord John Cavendish as chancellor of the exchequer, Lord Keppel as first lord of the admiralty, Lord Camden, the eminent lawyer, as president of the Council, the Duke of Grafton as privy seal, and Lord Shelburne as home and colonial secretary. The last appointment was viewed by the Amer-

CHARLES JAMES FOX.*

icans with mistrust. Shelburne had given out in 1776 that he would never serve with any man who would consent to the independence of America,[1]

[1] Bancroft, x. 152.

* [From the *Political Mag.*, ii. p. 157. Cf. another contemporary engraving in *London Mag.* (1779, p. 481). The likenesses painted by Reynolds, and the engravings of them, are noted in Hamilton's *Engraved Works of Reynolds* (pp. 28, 172). One is engraved, for instance, in Woodfall's *Debates of Parliament* (vol. ii., in 1794) Opie's picture is given in Lodge's *Portraits;* that of Ozias Humphrey in Russell's *Life and Times of Fox.* Cf. the Duke of Buckingham's *Memoirs of the Court and Cabinets of George III*, vol. iv. (1855). Portraits are often found in editions of Junius, like the London edition of 1801 (vol. ii.) Cf. *Harper's Magazine*, lxvi. 672.

There are contemporary likenesses of Camden in *Gent. Mag.*, Dec., 1770; *European Mag.*, May, 1788. Cf. Lodge's *Portraits* (by Dance), editions of Junius, etc.

For Reynolds's portraits of Burke, and the engravings of them, see Hamilton's *Engraved Works of Reynolds*, pp. 12, 187. Cf. editions of Junius, editions of Burke's *Works*, *Harper's Mag.*, lxvi. 671, etc.

For likenesses of Mansfield, see Lodge (by Reynolds), and editions of Junius. — ED.]

NORTH.

SANDWICH.

GRAFTON.

BARRÉ.

KEPPEL.

FOX.

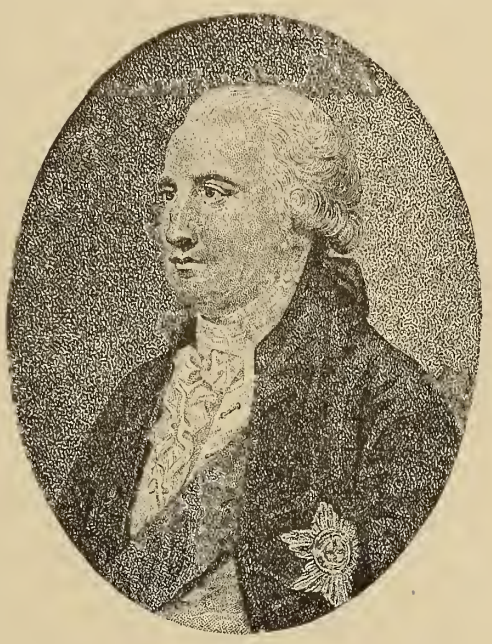
SHELBURNE.

ROCKINGHAM.

NOTE. — Types of Caricature portraits of the day, taken from Wright's *House of Hanover* (London, 1842), vol. ii. — ED.

and he was the only member of the opposition whom the king, with his "bad opinion of Rockingham's understanding, and horror of Fox," chose to confide in.[1]

Although in many respects his speeches show him to have been a statesman of enlightened views and in advance of his age, Shelburne seems to have had at times an unfortunate facility in giving offence. Some of his colleagues complained that he treated them in cavalier fashion, by withholding secrets from them and acting without their advice.[2] Fox especially had never forgiven him for duping him, as he considered it, in regard to the treaty of 1763,[3] and there were rumors[4] that he had an army of secret agents in his employment, on whom, according to one of Vergennes' correspondents, he expended £9,000 annually. It is perhaps, therefore, in reference to Shelburne that we find William Lee writing (April 2d)[5] that he is delighted at "the total overthrow of the infernal Scottish junto," but is doubtful whether peace is in prospect, because, "let the new ministry be as well disposed as you or I can wish, there is still *one man* who must have a great share in the business whom no one will trust for a farthing that knows him, farther than he is bound in black and white." Vergennes seems to have shared the general opinion, however ill-grounded, and he wrote, in June,[6] "Shelburne still shows the duplicity with which he has been always credited."



SHELBURNE.*

But whether these suspicions of Shelburne's sincerity had any just foundation, or were rather the consequence of a reserve which was constitutional to him, he certainly opened his new official career in a statesmanlike and conciliatory spirit by sending, on April 6th, a friendly message to Franklin, introducing Richard Oswald,[7] a retired Scotch merchant, whom

[1] Fitzmaurice, iii. 131.
[2] Lecky, iv. 226, 228, 230, 230, 257.
[3] *Enc. Brit.*, "Lansdowne."
[4] *Jay MSS.*, xix.
[5] *Jay MSS.*, xix.
[6] June 6th. *Jay MSS.*, xix.
[7] Sparks's *Franklin*, ix. 240.

* [From the London, 1801, edition of *Junius*. Reynolds's picture is in Lodge's *Portraits*. Cf. for woodcuts, *Pict. Hist. England*, v. 179; *Harper's Mag.*, lxvi. 674, etc. As to Shelburne, Lecky (iv. 230) carefully studies him, and gives references, including Walpole's *Last Journals*, ii. 566, 623, etc. Cf. *Macmillan's Mag.*, March, 1878; Russell's *Life and Times of Fox*, ii. ch. 17. Brougham failed to leave us a sketch of Shelburne, because he feared his friendship for the son of that minister would be thought to have influenced his views. — Ed.]

he considered the fittest instrument to employ, as being "a pacifical man, and conversant in those negotiations which are most interesting to mankind," and therefore likely to be on easy and friendly terms with the Americans. Oswald held informal conversations with Franklin and Vergennes, which had little result except to contradict the impression which Shelburne had derived from Digges, that there was a chance of the Americans consenting to hold a confidential discussion with England which should be kept a secret from France.[1] He took back with him some notes of Franklin's for Shelburne's enlightenment, suggesting that England should cede Canada, and Congress compensate the Tories.

While Oswald was in France, Laurens, who was then a prisoner in England, was taken into counsel by Shelburne, and commissioned to visit Adams, in Holland, to learn his intentions.[2] From the English point of view this mission was a failure. Laurens concurred with Adams that a separate peace was impossible, and was said to have railed against the English ministry with something of the peevishness of age and ill-health.[3] Richmond, he said, was the only one who seemed to have integrity and force of character. Rockingham was virtuous, but feeble, and all the rest were as false and insidious as their predecessors, without possessing the same talents, and were much disposed to flatter the king's desire to refuse American independence.

These English overtures caused Vergennes great uneasiness. Luzerne had warned him that Laurens would have to be watched closely, and he now heard from Vanguyon, in Holland, that Laurens was being employed as a go-between by Shelburne.[4] Vergennes' correspondents in London wrote that England was only waiting to detach America from the alliance before formally resuming hostilities,[5] and that France should renew the war at once, so as to give the Americans no excuse for negotiating. "A formal declaration of war would sorely embarrass the Americans." A rumor was started that America was going to be granted a constitution like that of Ireland, — a dependence upon the sovereign instead of Parliament. In short, Vergennes feared that America was escaping from his control, and he urged Florida Blanca to give her some token of Spanish good-will and encouragement, while on the other hand he assured Congress, through Luzerne, of the fidelity of France to the cause,[6] and asked them to announce publicly that the seat of negotiations could only be in Europe, and to refer English commissioners in America to their ministers in Europe, who were provided with instructions. He was disturbed, too, by the efforts of England to tamper with the fidelity of the Dutch.[7] English emissaries were in Holland; Fox was making offers of an armistice to Simolin, the Dutch am-

[1] Sparks's *Franklin*, ix. 245; *Jay MSS.*, v. 1.

[2] *Jay MSS.*, v. [On Laurens's release from the Tower, see Madison's *Debates*, i. 175; Rives's *Madison*, i. 346; Parton's *Franklin*, ii. 404. — Ed.]

[3] *Jay MSS.*, v. 2

[4] *Jay MSS.*, i.; xi. 1.

[5] *Ibid.* v. 1.

[6] *Secret Journals of Congress*, 28th May, iii. 133.

[7] April 18th. *Jay MSS.*, vi. 1.

bassador; and, worst of all, Russia, the would-be mediator, was showing a pronounced partiality for England, and a desire, as Vérac, the Russian minister, informed him, to detach Holland from the other belligerents, in order to strengthen England against the house of Bourbon.[1]

So long as England could reach the Americans only through the medium of France, the task of negotiating with them properly belonged to the foreign secretary, Fox. But if treated with separately, in their character as colonies, they fell under Shelburne's jurisdiction. The cabinet compromised the matter by deciding, on April 23, to send negotiators to both Franklin and Vergennes.[2] Oswald, whom Franklin had found very acceptable, was sent as Shelburne's representative to arrange preliminaries with America, and Thomas Grenville on behalf of Fox to negotiate with Vergennes. Naturally, the provinces of these two commissioners overlapped, in so far as the American negotiation came indirectly into Grenville's province; and apart from the fact that they were commissioned by two statesmen who hardly disguised their mutual dislike, there was little in common between the quiet merchant and the young and ambitious politician.[3] Oswald, however, never showed a wish to trespass into Grenville's department. "It would have been wrong in me," he said at a later date, July 11, "to meddle in it in any shape, and so cautious I was that I scarce asked him any question as to the progress of his affairs."

The instructions[4] given to Oswald by Shelburne insisted on two points as especially important: First, that if America was to be independent, her independence was to be complete, — without any "secret, tacit, or ostensible connection with France"; secondly, that he must "make early and strict conditions, not only to secure all debts whatever due to British subjects, but likewise to restore the loyalists to a full enjoyment of their rights and privileges. Lord Shelburne will never give up the loyalists." The suggestions in Franklin's notes as to reparation to the Americans and ceding Canada were to be dismissed as out of the question. Finally, he was to avoid being too submissive in tone. "Dr. Franklin should not be deceived by the cry of the country for peace.[5] The country at large is no way reconciled to independence. Many important people are quiet for the present, counting upon Lord Shelburne's resisting it."

Grenville, who arrived at Paris on May 7, three days after Oswald, was instructed by Fox to offer American independence to France in return for a peace on the basis of the treaty of 1763; and in case the treaty should be found impracticable on account of points in which America had no concern, "it will be very material that you should endeavor to discover whether there may not be a prospect of a separate peace between Great

[1] *Jay MSS.*, vi. 1. April 26th, May 10th, May 21st.

[2] Fitzmaurice's *Shelburne*, iii. 183.

[3] Sparks's *Franklin*, ix. 336, etc.

[4] [Memoranda, April 28, 1782, given by Shelburne to Oswald, are in Sir George Cornwall Lewis's *Administration of Great Britain* (p. 47), where also (p. 82) will be found portions of Oswald's diary in May and June, 1782. Oswald's letters are copied in the *Sparks MSS.*, no. xl. — Ed.]

[5] *Jay MSS.*, xvii. 1.

Britain and America."[1] His first interview with Vergennes, May 8, made it evident that France expected a better bargain than American independence.[2] The French minister smiled at the proposed exchange, and pointed out that the cession of independence amounted to little, because America was practically independent already. Besides, as he said, England herself had never been satisfied with merely achieving the object of a war when she had ended it successfully. Seeing little hope in that direction, Grenville next undertook to discover whether, if France proposed impossible terms, America would consent to continue the war for the purpose of exacting them, and how far binding Franklin considered her engagements to France. Nothing definite could be elicited from the latter, except that "America was free from every sort of engagement but those which existed in the two public treaties of commerce and alliance, and that those two treaties were such as any other nation was free to make with America." This encouraged Grenville, however, to suggest in a letter to Fox, on May 14, that as France and Spain were encouraged to make extravagant claims by their reliance on the support of America, it was a question[3] "whether by giving in the first instance independence to America, instead of making it a conditional article of general treaty, we might not gain the effects though not the form of a separate treaty; whether America, once actually possessed of her great object, would not be infinitely less likely to lend herself to other claims; whether, too, the treaty now forming with Holland would not so be baffled in its object. . . . Dr. Franklin's conversation has at different times appeared to me to glance towards these ideas. While he was with me this morning, he went so far as to say that when we had allowed the independence of America, the treaty she had made with France for gaining it ended, and none remained but that of commerce, which we too might make if we pleased. . . . He had, too, once before said that in forming a treaty there should, he thought, without doubt, be a difference in a treaty between England and America and one between England and France, that always had been at enmity. . . . He rested much upon the great effect that would be obtained by some things being done *spontaneously* from England."

The foregoing letter seems to have struck the keynote of the subsequent policy of Fox, and, to a certain extent, of the cabinet. An additional incitement to resist exorbitant French claims was the victory of Rodney over De Grasse, news of which arrived on the evening of the day (May 18) on which the cabinet agreed to give full powers to Grenville to negotiate.[4] Three days afterwards Fox wrote acknowledging Grenville's letter, and desiring him to explain to the American ministers how difficult the work of peacemaking would be if France and all her allies were brought into the American negotiation.[5] "It will surely be easy enough to show the Amer-

[1] *Jay MSS.*, viii. 1.
[2] Sparks's *Franklin*, ix. 273.
[3] *Jay MSS.*, viii. 3.
[4] Fitzmaurice, iii. 194.
[5] *Jay MSS.*, viii. 4.

icans how very unreasonable it is that in a negotiation for peace they should be encumbered by powers who have never assisted them during the war, and who have even refused to acknowledge their independence." The objects of the cabinet, he said (May 21, 1782), if France made claims impossible to grant, were two: to detach some of the present allies of France, and to gain allies for England. This could be done by convincing America and Holland that England had done her best to effect a reconciliation, and that if these nations persisted in the war it was for the sole purpose of aggrandizing the house of Bourbon. Grenville was to "cultivate Dr. Franklin and the Dutch minister in a peculiar manner."

Such were the grounds of the policy formally initiated by the cabinet on May 23, when they determined to propose the independence of America "in the first instance."[1]

The true policy of England, as Fox understood it, was in substance as follows: to comply with the conditions of the French alliance by combining the French and American negotiations, and entrusting the whole to a single English commissioner, but at the same time to sever the allies in spirit, and convince America of England's sincerity and good-will by making a free grant of American independence unconditionally, and thus throwing the blame of delaying peace upon the cupidity of France, — in a word, to effect a virtual if not a formal separation.[2] But this rather politic and conciliatory plan gave way to the spiritless measure of bargaining over the grant of independence. The king and Shelburne were determined not to give it away without an equivalent. "I am apprised that Lord Shelburne," the king wrote in July,[3] "though he has gone great lengths at the expense of his opinion in giving way as to American independence, if it can effect peace, would think he received advice in which his character was not attended to, if he intended to give up that, without the price set on it which alone could make this kingdom consent to it." A compromise was still thought possible: something was hoped for from the mission of Sir Guy Carleton, and from the stray hints which it was thought Franklin had let fall to Grenville of the possibility of the league between France and America being dissolved.[4]

[1] Fitzmaurice, iii. 195. The great advantage of this move, Fox wrote to Grenville on May 26th, was, that henceforward it would be clear to the American agents that any obstacle to the recognition of their cherished independence would come from the selfishness of France, and that it would doubtless appear "unreasonable and intolerable to any honest American that they, having gained the point for which they contested, should voluntarily and unnecessarily submit to all the calamities of war without an object, till all the powers in Europe shall have settled all the various claims and differences which they may have one with the other, and in which it is not even pretended that America has any interest whatever, either near or remote. . . . It has often been stipulated between allied powers that one shall not make peace until the other has attained some specific object named in the treaty; but that one country should bind herself to another to make war till her ally shall be satisfied with respect to all the claims she may think fit to set up — claims undefined and perhaps unthought of at the time of making the engagement — would be a species of treaty as new, I believe, as it would be monstrous." (*Jay MSS.*, viii. 6, 7.)

[2] Fitzmaurice, iii. 195.

[3] *Ibid.* iii. 220.

[4] Sparks's *Franklin*, ix. 348; Shelburne's letter to Carleton.

Another departure from the policy recommended by Fox was the decision of the cabinet to retain Oswald as negotiator. Fox argued that the cabinet minute of May 23d placed America on the footing of an independent nation, and therefore within the range of the foreign department, so that Oswald's services might be dispensed with. The cabinet, however, thought it judicious to defer to Franklin's liking for Oswald, who had returned to England, and was now (May 26th) sent back to France, with instructions to offer independence as the price of peace, and to urge the claims of the loyalists.

The result of this arrangement was that Oswald, although the accredited agent of Shelburne, could receive no powers to treat until the enabling act was passed, and that Grenville's powers only authorized him to treat with France. The omission of America Grenville explained to Vergennes and Franklin to be accidental, not understanding that it was the cabinet's intention still to keep independence as a *dernier ressort*, and he claimed the right of negotiating with America upon this commission, in spite of its defectiveness.[1] His explanation only excited the suspicions of Franklin and Vergennes, who looked upon the wording of his powers as an insidious attempt to separate the allies, and Vergennes' insinuations of English bad faith now seemed plausible enough.[2] On June 14th, in answer to his request, Grenville received new powers, authorizing him to treat with France and "any other prince or state." To reassure Franklin as to the meaning of the addition, he announced that he was empowered to declare independence previous to the treaty. But the enabling act had not been passed as yet, and Franklin doubted whether the words could be interpreted to refer to America. "I find myself," he wrote on June 17th, "in some perplexity with regard to these two negotiators. . . . Lord Shelburne seems to wish to have the management of the treaty. Mr. Fox seems to think it in his department. I hear that the understanding between these ministers is not quite perfect. . . . Mr. Oswald does not solicit to have any share in the business, but, submitting the matter to Lord Shelburne and me, expresses only his willingness to serve if we think he may be useful, and is equally willing to be excused, if we judge there is no occasion for him. Mr. Grenville seems to think the whole negotiation committed to him, and to have no idea of Mr. Oswald's being concerned in it, and is therefore willing to extend the expressions in his commission so as to make them comprehend America, and this beyond what I think they will bear." [3]

Meanwhile, the informal conversations of Oswald with Franklin on the terms of peace had been little gain to England, because Oswald had incautiously assented to all Franklin's suggestions, and found that "nothing could be clearer, more satisfactory and convincing" than the arguments for ceding Canada, which he thought had made an impression on the ministry. On June 3d he said that peace was absolutely necessary for England, whose

[1] Sparks's *Franklin*, ix. 305.
[2] *Ibid.* ix. 299.
[3] Sparks's *Franklin*, ix. 335, 336.

enemies might do what they pleased with her; and he agreed with Franklin that America could not be expected to compensate the loyalists.[1]

Grenville's dissatisfaction at his anomalous position, side by side with Oswald, came to a head when Oswald spoke to him of the Canada paper which he had submitted to Shelburne, and of Shelburne's offer to give him a separate commission to treat. He wrote to Fox on June 4th,[2] complaining of "the embarrassments arising from two people negotiating to the same purpose, but under different and differing authorities, concealing and disguising from one another what with the best intentions they could hardly make known." He said that he had heard Oswald already spoken of as "Lord Shelburne's ambassador," and mentioned the Canada paper as proof of a secret negotiation. Fox was warmly indignant at what he termed Shelburne's "duplicity of conduct."[3] He showed Grenville's letter to Lord Rockingham and Lord John Cavendish, who were, he said, "as full of indignation at its contents as one might reasonably expect honest men to be." When the enabling act was passed, and the cabinet decided to appoint Oswald as separate commissioner, and to reject the proposal of Fox that independence should be unconditionally recognized, Fox declared his intention of resigning.[4] Immediately afterwards (July 1st) came the death of Rockingham, which left the ill-assorted ministry without a head, and led to the reorganization of the ministry under Shelburne.

These unfortunate disputes had a prejudicial effect upon the negotiations. They caused a general impression of the weakness and insincerity of England, and thereby made the connection between the allies all the closer. Franklin even suggested a new engagement, by which it was to be a common cause for all the allies, if England singled out one of them to make war with after the treaty.[5] In June the prospects of peace seemed very remote. Vergennes wrote to Montmorin that the Rockingham and Shelburne parties were measuring swords, so that more delays were certain.[6]

The contention between Shelburne and Fox in regard to America was partly a result of the continuance of the king's opposition to the acknowledgment of independence.[7] The former's hesitating and reluctant acquiescence in what he considered ruinous to the empire was a faithful reflection of the king's feelings. Even at this stage of the controversy Shelburne's aversion to the measure was as pronounced as ever, and he said on July 10th that whenever the British Parliament should recognize the sovereignty of the thirteen colonies, the sun of England's glory was forever set. On the other hand, the policy of Fox was inspired by a popular liberalism that saw in the recognition nothing more than an amicable acknowledgment of what already existed in fact, and the straightforward and

[1] Sparks's *Franklin*, ix. 252, 267, 311.
[2] Lecky, iv. 249.
[3] Fitzmaurice, iii. 210.
[4] *Ibid.* iii. 219.
[5] *Ibid.* iii. 329.
[6] *Jay MSS.*, xix. 2.
[7] Fitzmaurice, iii. 220.

spontaneous offer of independence which he spoke for in the cabinet of Rockingham was adopted by Shelburne himself when he found it to be inevitable.[1]

However feeble the attempts of the Rockingham ministry were at ending the American quarrel, they have the credit of introducing a purer spirit into English politics, of initiating parliamentary and economical reform, and of diminishing the corrupt influence of the crown by abolishing useless offices and supervising the royal expenses. It was because mismanagement of the colonies was seen to be intimately connected with misgovernment at home that the champions of American liberties were equally zealous for English popular government.[2]

[1] [Brougham (*Statesmen*, etc.), after having sketched Burke's characteristics, turned to Fox thus: "The glory of Mr. Burke's career certainly was the American war, during which he led the opposition in the House of Commons, until, having formed a successor more renowned than himself, he was succeeded rather than superseded in the command of that victorious band of the Champions of Freedom. This disciple, as he was proud to acknowledge himself, was Charles James Fox."

Sir George Cornwall Lewis, speaking of the earlier lives of Fox, — R. Fell's *Public Life of Fox* (1808) and J. B. Trotter's *Memoirs of the latter years of Fox*, — says neither of them is at all satisfactory (*Administrations of Great Britain*, p. 2).

The *Memorials and Correspondence of Charles James Fox* (London, 1853–54, — 3 vols.), edited by Lord John Russell, had been mainly arranged beforehand by Lord Holland (Fox's nephew) and Mr. Allen, — so that the completed works show their joint labors in annotations; and from the valuable material embodied in the book, the same editor, when Earl Russell, in 1866, published his *Life and Times of Fox* (London, 1859), which fulfilled the promise, made in *Correspondence of Fox*, to give "in a connected narrative Fox's political career and the parliamentary history of his times."

Add to the general histories in consultation, Earle's *English Premiers* (ch. 7 and 8); Brougham's *Statesmen;* W. P. Rae's *Wilkes, Sheridan, Fox, — the opposition under George the Third* (London, 1874); Walpole's *Last Journals;* Macaulay's essay on *William Pitt;* and the standard lives of his contemporaries.

The correspondence of Grenville and Fox, while Grenville was in Paris, is given in Russell's *Memorials of Fox*, and in the Duke of Buckingham's *Memoirs of the Court and Cabinet of George III* (the second edition is somewhat improved over the first, but still badly edited), and the outline of the correspondence is given in Adolphus's *England* (vol. iii.). Cf. C. G. Lewis's *Administrations of Great Britain*, p. 38.

The difference which separated the views of Shelburne and Fox we may expect to find perpetuated in Fitzmaurice's *Shelburne* and in Russell's *Memorials* and *Life and Times of Fox*. Cf. *A complete and accurate account of the very important debate in the House of Commons, July 9, 1782, in which the cause of Mr. Fox's resignation and the question of American Independence came under consideration* (London, 1782). — ED.]

[2] As early as 1758, the letter of a British general quoted by Sir Thomas May, makes this frank statement in regard to the regrettable extent to which patronage in England had lowered and demoralized the civil service in America: "As for civil officers appointed for America, most of the places in the gift of this Crown have been filled with broken-down members of Parliament, of bad if any principles, *valets de chambre*, electioneering scoundrels, and even livery-servants. In one word, America has been for many years made the hospital of England." The treatment of America thus plainly stated helps to explain the interesting fact that American revolt inaugurated British civil-service reform.

In 1780 there was a wide-spread agitation against the undue influence of the crown, and of the patronage and corruption by which it was maintained. Burke's Reform Bill in 1781 was directed against the royal expenses and corrupt influence in the army. It was supported by Pitt, who in 1783 brought in a reform bill, and another was introduced by the Duke of Richmond, while largely signed petitions came in for "Parliamentary and economical reform." Under the Rockingham ministry a higher tone of opinion prevailed, with restraints on the issue of secret-service money, and a cessation of the bribery of members. The mistakes and disasters of the American war were attributed to the misuse of the sovereign power and the servility of Parliament. Pitt's motion for a committee of inquiry into parliamentary representa-

The year 1782 found Jay still in Spain, waiting upon the pleasure of the Spanish cabinet. It has been mentioned that in September, 1781, he submitted to Florida Blanca certain propositions for a treaty, one of which, in accord with the instruction of Congress passed at the instance of Luzerne, was the abandonment to Spain of the navigation of the Mississippi below latitude of 31°, an offer to which, on his own responsibility, he added the declaration that, unless the proposed treaty was concluded before a general peace, the United States should not be bound by their offer to surrender the navigation.[1]

To these propositions Florida Blanca responded with coldness and pretexts for delay, and showed no disposition to recognize American independence. The appointment of a successor to Mirales, as a representative of Spanish interests in America, was indefinitely postponed,[2] and the alliance anticipated by Congress seemed further off than ever. "I am surprised," Franklin wrote to Jay,[3] "at the dilatory and reserved conduct of your court. I know not to what amount you have obtained aids from it, but, if they are not considerable, it were to be wished you had never been sent there, as the slight they have put upon our offered friendship is very disreputable to us, and, of course, hurtful to our affairs elsewhere. I think they are short-sighted, and do not look very far into futurity, or they would seize with avidity so excellent an opportunity of securing a neighbor's friendship, which may hereafter be of great consequence to their American affairs." Jay was of opinion that America had now everything to gain by postponing a treaty with Spain.[4]

Spain was becoming engrossed by her designs upon Gibraltar.[5] "This is the only object in the whole world," Vergennes wrote, May 4th, "that the Spanish ministry can see: they refer everything to it, and they are absolutely indifferent to whatever is not calculated directly to assure its conquest." Under these circumstances there seemed to be nothing which Jay could at this time accomplish in Spain, and he willingly complied with a request from Franklin to join him at Paris. "Here you are greatly wanted," Franklin wrote,[6] April 22d, "for messengers begin to come and go, and there is much talk of a treaty proposed; but I can neither make nor agree to con-

tion, May 7, 1782, was rejected by a majority of twenty, the best division that the reformers ever had until 1831. At no time, perhaps, says Mr. John Fiske, since the expulsion of the Stuarts, had so much been done towards purifying English political life as during the spring of 1782. See Dorman B. Eaton's *Civil Service in Great Britain*, pp. 122, 128, and Lecky's *History*, iv. 240.

[1] *Dipl. Corresp.*, vii. 499. [On the navigation of the Mississippi, see Rives's *Madison* (i. 243, 247); Eugene Schuyler's *American Diplomacy* (ch. 6). The statement of Congress in 1780, in answer to the Spanish denial of the American right, is in Pitkin (ii. 512). Cf. instructions to Franklin and Jay, Oct. 17, 1780, in Madison's *Letters, &c.*, iv. 441; also see 458–464. Cf. on the grounds of the boundary on the Mississippi, the *Journals of Congress;* Madison's *Debates and Correspondence* (vol. ii.). — Ed.]

[2] *Dipl. Corresp.*, ix. 31.

[3] *Ibid.* viii. 58.

[4] "Time," he said, "would secure advantages to us which we should now be obliged to yield. Time is more friendly to young than to old nations, and the day will come when our strength will insure our rights."

[5] *Jay MSS.*, ix. 2.

[6] Sparks's *Franklin*, ix. 212.

ditions of peace without the assistance of my colleagues. Mr. Adams, I am afraid, cannot just now leave Holland, Mr. Jefferson is not in Europe, and Mr. Laurens is a prisoner, though abroad upon parole. I wish, therefore, that you would resolve upon the journey, and render yourself here as soon as possible. You would be of infinite service." Jay arrived at Paris June 23d, with his family, after a tedious journey attended by illness and delay, to the relief of Franklin,[1] who on the following day presented him to Vergennes, by whom he was very cordially received.

He wrote, June 26th, to the Count de Montmorin at Madrid: "What I have seen of France pleases me exceedingly. . . . No people understand doing civil things so well as the French. The aids they have afforded us received additional value from the generous and gracious manner in which they were supplied." Of Vergennes he wrote favorably to Livingston; and of Franklin, now in his seventy-seventh year, while Jay was but thirty-seven, he said: "I have endeavored to get lodgings as near to Mr. Franklin as possible. He is in perfect health, and his mind appears more vigorous than that of any man of his age I have known. He certainly is a valuable minister and an agreeable companion." On the 29th, Franklin and Jay waited by appointment on the Spanish ambassador, the Count d'Aranda, who received them with particular courtesy, and revived the subject of a treaty; for the Spanish court had become disposed to conciliate America since hearing of the overtures of the British ministry, which seemed to them to threaten a separation of America from the common cause, or else a general peace to be forced on Spain before she had secured the results which she hoped to accomplish by the war. D'Aranda[2] had actively instigated Spain to join in the war; but of late, although accused of French sympathies, he had been reflecting the narrow caution of his court too faithfully to win Vergennes' approval. "It is very strange," the latter wrote, June 15th, to Montmorin, "that the Spanish cabinet repays our frankness and cordiality by reticence;" and in October he told the English commissioner that D'Aranda's peculiarity of temper had given the proposals the most ungracious and inauspicious appearance possible.

One remark of D'Aranda, not without interest to the American negotiators, was that Spain intended to make her grievances entirely distinct from the cause of America, with whom Vergennes admitted Spain had never had anything in common.[3] D'Aranda's instructions, Montmorin learned, directed him to take the convention of Aranjuez (April 12, 1779) as a basis

[1] Sparks's *Franklin*, ix. 338.

[2] The Count d'Aranda, a grandee of Aragon, had been Spanish ambassador for the past nine years at Paris, where he kept an establishment of princely magnificence. Jay regarded D'Aranda as the ablest Spaniard he had met. Before his mission to France he had been at the head of the Spanish ministry, and in high favor with Charles III. In this capacity he had shown himself a skilful and innovating minister, having among other reforms effected the expulsion of the Jesuits in 1767, which, coupled with his attacks upon the Inquisition, brought the influence of the Church so strongly against him that he was forced to resign. He was a man of strong will and independent opinion, and was at this time in his sixty-third year.

[3] *Jay MSS.*, ix. 8.

when settling the conditions of peace.[1] Among the advantages to be secured were the recovery of Gibraltar, the possession of the river and fort of Mobile, the restitution of Pensacola and part of Florida. On the whole, the desire of the Spanish court was for further delay. Montmorin reported, July 8th, that Florida Blanca feared that Vergennes was hurrying the negotiation and disliked seeing English emissaries at Paris, because, despite the obstacle of American independence, things might arrange themselves too easily,[2] and Spain might be obliged to forego Gibraltar, which she wished to capture and keep without ceding anything in exchange. She had already incurred most of the expenses of her final effort to take it, and she looked upon success as almost certain;[3] so that her policy was "to delay as long as possible the moment for explaining herself." "One cannot disguise from one's self the fact," wrote Montmorin, "that, in view of these circumstances, it is almost solely on behalf of Spain that we continue the war. It is to be hoped that this truth may not be too apparent to the Americans, who have no reason to be interested in satisfying that power, and who would soon grow weary of the war if it had only this object." Vergennes, in reply, emphatically denied the charge that he was trying to hurry (*brusquer*) the negotiation at the expense of Spain. "The verbal answer to Grenville on June 21st," he said, "was drawn up solely with the view of prolonging the negotiation to gratify our desires and the convenience of our allies. In fact, the points on which I ask for arrangements to be made would take up quite six months."[4]

But both ministers were aware of the necessity of maintaining some semblance of direct negotiation with England in order to keep the negotiation out of the hands of the mediating powers, whose partiality for England was almost a certainty, and who were now renewing their offers. The danger of mediation was a constant theme of Vergennes' letters to Spain during the summer. Kaunitz, the Austrian minister, was described by him as thinking it better that the war should last forever than end without the intervention of the mediators.[5] By polite and apologetic replies the two courts succeeded in evading the offers.

Meanwhile, the American negotiation was temporarily at a standstill. Grenville's commission, authorizing him to treat with any prince or state besides France, was deemed insufficient, and Oswald was as yet unauthorized to treat. A letter from Franklin, expressing hopes of Oswald's appointment to the post of separate commissioner to treat with America, was forwarded by the latter to Shelburne, July 8th, and two days afterwards Franklin sent Oswald the outline of conditions which he considered might form the basis of a treaty under the categories of *necessary* and *advisable* articles. The "necessary" articles were independence, a settlement of the boundaries, a confinement of the boundaries of Canada, and

[1] *Jay MSS.*, ix. 2.
[2] *Ibid.* x. 2.
[3] *Ibid.* x. 334.
[4] *Ibid.* x. 1.
[5] *Ibid.* vi. 1, 2.

freedom of fishing on the banks of Newfoundland and elsewhere. The "advisable" were an indemnity to those who had suffered by the war, a public acknowledgment of England's error, equality of commercial privileges, and the cession of Canada.

Franklin wrote (July 12) to Oswald again, suggesting the necessity of some acknowledgment, independent of the treaty itself, of the recognition by England of the independence of the United States, and adding: "Until it is made and the treaty formally begun, propositions and discussions seem on consideration to be untimely; nor can I enter into particulars without Mr. Jay, who is now ill with the influenza."

While informal conversations, carefully reported by Oswald, held by him with Franklin and Jay before he had any authority to act which was recognized by the American commissioners, had but little official significance, they seem to have prepared the way for the direct negotiation of the English and Americans, which was to follow, and where the rule laid down by Vergennes, that each nation should negotiate for itself, appears to have been suggested by the offer by Grenville of American independence as a compensation to France for the sacrifices in the war. Vergennes, who had far different views, promptly declined to regard American independence as a boon to France, and represented his refusal as a mark of respect for the rights of America. "They want," he said to Franklin, "to treat with us for you; but this the king will not agree to. He thinks it not consistent with the dignity of your state. You will treat for yourselves, and every one of the powers at war with England will make its own treaty. All that is necessary for our common security is, that the treaties go hand in hand, and are signed all on the same day."

The English ministry, on their part, were tending to the same object, in the hope of arranging matters with America separately, so that she should lose all interest in the alliance, and Grenville was charged to point out to Franklin the folly of encumbering the American negotiation with the claims of their allies.

When, agreeably to Franklin's wishes, Shelburne had offered to appoint Oswald as separate negotiator, and Franklin, on that understanding, had suggested the outline of a treaty without communicating the discussion to Vergennes,[1] whom he had hitherto kept acquainted with the English proposals through the agency of Lafayette and Rayneval, it seems to have inspired Oswald with hopes that it might be possible to put an end to the American quarrel in a short time. "When that is done," he wrote (July 10), "I have a notion that the treaty with the other powers will go more smoothly on. The Doctor did not, in the course of the conversation, hesitate, as to a conclusion with them, on account of any connection with those other states. I suppose they consider themselves restrained by their alliance with France only in the point of ratification."[2]

Presently (July 9), the news arrived at Paris of the change in the

[1] Bancroft, x. 556.

[2] Sparks's *Franklin*, ix. 328, 337, 356.

British ministry, caused by the death of Rockingham. Shelburne had succeeded to his office at the king's request,[1] and this was naturally followed by the resignation of Fox and most of his political adherents, whom the king described as "leaders of sedition." Among the latter were Lord John Cavendish, Burke, and Sheridan. William Pitt now became chancellor of the exchequer, Lord Grantham foreign, and Thomas Townshend colonial secretary. The new ministry contained many able individuals, but as a whole it lacked unity, comprising as it did many of the Rockingham Whigs side by side with Shelburne's supporters; two contending elements, linked under the headship of a minister who by some was suspected of equalling Lord North in his devotion to the views of the court.

THE YOUNGER PITT.*

Vigorous attacks were made upon Shelburne by Fox and Burke in the Commons: Fox denying (July 9) the sincerity of his promises of economical reform and American independence, Burke stigmatizing him as "a Catiline or a Borgia in morals."[2] In the House of Lords Shelburne vindicated his appointment as a rightful exercise of the authority of the crown, and, while admitting his aversion to the idea of American independence, said that he felt the necessity of giving way, and that the insinuations thrown out relative to a change of system towards America were totally without foundation.[3] The tone of his speech, however, was such that Vergennes criticised it as a declaration hostile to America and contradictory to the assertions of Grenville. It seemed to confirm the rumors which had lately been reaching Franklin, that the new ministry intended to retreat from its promises.[4] He also heard from England that one of the

[1] Lecky, iv. 258; Fitzmaurice, iii. 226.

[2] Fitzmaurice, iii. 233. [The principal record of Burke's career is Thomas Macknight's *Hist. of the life and times of Edmund Burke* (London, 1858, in 3 vols.); he has used the Cavendish debates, published and unpublished. *The works and correspondence of Edmund Burke* (8 vols., London, 1852) is deficient in a part of his correspondence. (Cf. Macknight, pp. ix, x. — Ed.]

[3] *Ibid.* iii. 241.

[4] "It is now intimated to me," Franklin wrote (July 11), "from several quarters, that Lord Shelburne's plan is to retain the sovereignty for

* [From the *European Magazine*, January, 1784. Cf. lives of Pitt, Woodfall's *Debates in Parliament* (1794), Lodge, etc., etc. Bishop Tomline's *Life of Pitt* (1811, in 3 vols.) is superseded by Earl Stanhope's *Life of the Rt. Hon. Wm. Pitt* (London, 1862, 4 vols.), who used Pitt's unprinted correspondence with George III. — Ed.]

differences between Shelburne and Fox was upon the subject of acknowledging independence.[1] Oswald immediately wrote to Shelburne to ask whether there was any truth in the rumor of a reserve in the grant of independence. Shelburne replied emphatically (July 27) in the negative.[2]

Parliament rose on the 11th, and Shelburne, in the words of his biographer, dispatched to Paris "Benjamin Vaughan, the political economist, an intimate friend of Franklin, to give private assurance to the latter that the change of administration brought with it no change of policy." Shelburne also ordered the attorney-general to draw up a commission which empowered Oswald "to treat, consult, and conclude with any commissioner or commissioners named or to be named by the said colonies or plantations, and any body or bodies corporate or politic, or any assembly or assemblies, a peace or truce with the said colonies or plantations, or any of them, or any part or parts thereof." His instructions authorized him to concede independence if necessary; "our earnest wish for peace disposing us to purchase it at the price of acceding to the complete independence of the thirteen States." He was also instructed to claim the debts incurred before 1775, the restitution of confiscated property, and an absolute severing of all American engagements to European powers.[3]

Grenville by this time had left Paris. Shelburne had offered to retain him, but Grenville had no sooner received word of Shelburne's appointment than he wrote for leave to resign. His successor was the English minister at Brussels, Alleyne Fitzherbert (afterwards Lord St. Helens), whom Townshend commended in a letter to Oswald as "a person of whose talents and discretion I have the highest opinion, founded on a long acquaintance." There was to be constant communication between the two ministers, and throughout the negotiation they were on excellent terms. "It is extremely to my interest," Fitzherbert wrote (August 17), "to cultivate Mr. Oswald's acquaintance on my own private account, the extensive and almost universal knowledge he is possessed of being the only source I can resort to here."

Fitzherbert arrived at Paris about the beginning of August, but found that no negotiation could begin with France until Oswald had received his

the king, giving us otherwise an independent Parliament, and a government similar to that of late intended for Ireland."

[1] Sparks's *Franklin*, ix. 362, 365, 374.

[2] "There never have been two opinions, since you were sent to Paris, upon the most unequivocal acknowledgment of American independence. But to put this matter out of all possibility of doubt, a commission will be immediately forwarded to you, containing full powers to treat and to conclude with instructions from the minister who has succeeded to the department which I lately held, to make the independency of the colonies the basis and preliminary of the treaty now depending and so far advanced, that hoping, as I do, with you, that the articles called advisable will be dropped, and those called necessary alone retained as the ground of discussion, it may be speedily concluded. You very well know I have never made a secret of the deep concern I feel in the separation of countries united by blood, by principles, habits, and every tie short of territorial proximity. But you very well know that I have long since given it up, decidedly though reluctantly. You will find the ministry united, in full possession of the king's confidence, and thoroughly disposed to peace, if it can be obtained on reasonable terms; if not, determined to have recourse to every means of rousing the kingdom to the most determined efforts." (Fitzmaurice, iii. 247, 248.)

[3] *Ibid.* iii. 249, 251.

full powers. Both treaties, Vergennes said, were to go on together hand in hand. On August 6th, the copy of the promised commission came. Oswald immediately carried it to Franklin, who made no comment upon its wording, and afterwards he visited Jay, who had now recovered from his illness, and whom he found "a man of good sense, of frank, easy, and polite manners." Jay's conversation, however, on the subject of independence had "a freedom of expression and disapprobation as shows we have little to expect from him in the way of indulgence, and I may venture to say that, although he has lived till now as an English subject, he may be supposed as much alienated from any particular regard for England as if he had never heard of it in his life. I sincerely trust I may be mistaken, but I think it proper to make the remark, as Mr. Jay is Dr. Franklin's only colleague, and being a much younger man, and bred to the law, will of course have a great share of the business assigned to his care." [1]

The commission was next submitted by Franklin and Jay to Vergennes, who remarked upon its form as unusual, and as requiring time to consider, and promised to give them his opinion two days later. On the 10th of August the American commissioners went to Versailles to hear the opinion of Vergennes. A paper is extant, apparently drawn up by that minister, containing certain reflections upon the commission. This paper [2] begins by arguing that the bill of July 25 is not a domestic one, because it speaks of *the*, not *our*, colonies, and sums up with the opinion that the commissioners should reply that they accept it on condition the court of London agrees to accept the full powers given them by Congress, and with a question whether the acceptance by Oswald of the commissioners' powers is not in itself enough. There are references also to the matter in some of the letters of Vergennes. To Montmorin he wrote (August 22), "The American demand for a preliminary recognition of independence is putting the effect before the cause;" and to Luzerne (September 7) he wrote that negotiations should begin, whether England accepted the demand for a recognition of independence or not.[3] Vergennes, in his conference with Franklin and Jay, advised them to treat with Oswald under the commission as soon as the original should arrive. Jay observed to him "that it would be descending from the ground of independence to treat under the description of colonies." He replied that names signified little; that the king of Great Britain styling himself the king of France was no obstacle to the king of France treating with him; that an acknowledgment of our independence, instead of preceding, must, in the natural course of things, be an effect of the treaty, and that it would not be reasonable to expect the effect before the cause; adding that Oswald's acceptance of their powers would be a tacit admission of their independence. Franklin also said, "he believed the commission would do." [4]

[1] Sparks's *Franklin*, ix. 377.

[2] *Jay MSS.*, xi. 1.

[3] "Il faut en politique savoir ceder sur la forme lorsq'on a lieu d'etre satisfait pour le fond."

[4] It will be remembered that Vergennes had uniformly represented himself to Congress as insisting upon the admission of an American plenipotentiary to the proposed congress for

On returning from Versailles, Jay imparted to Franklin his theory of Vergennes' motives. He thought that Vergennes wished to postpone the acknowledgment until the objects of France and Spain had been secured, "because, if we once found ourselves standing on our own legs, our independence acknowledged, and all our other terms ready to be granted, we might not think it our duty to continue in the war for the attainment of Spanish objects. I could not otherwise account for the minister's advising us to act in a manner inconsistent with our dignity, and for reasons which he himself had too much understanding not to see the fallacy of. The Doctor imputed this conduct to the moderation of the minister, and to his desire of removing every obstacle to speedy negotiations for peace. He observed that this court had hitherto treated us very fairly, and that suspicions to their disadvantage should not be readily entertained. He also mentioned our instructions as further reasons for our acquiescence in the advice and opinions of the minister."[1]

The correspondence of Montmorin with Vergennes at this time confirms Jay's view that Spain was reluctant to see independence granted to America. Florida Blanca feared, as Montmorin wrote, August 12th, that when a point of such interest to France was once determined, France might show herself too ready to yield the interests of Spain. He fully realized the adroitness of Shelburne proposing to offer by the treaty unconditional independence.[2] "In fact, if the offer is not immediately followed by peace, it will not be difficult to persuade the Americans that the continuation of the war has an

peace, and upon the acknowledgment of American independence as a preliminary to all negotiation. Thus, on July 12, 1779, Gérard told Congress that the court of London was rejecting the very idea of a formal and explicit acknowledgment of the independence of the United States, which his most Christian Majesty perseveres to hold up as a preliminary and essential condition; and in January, 1782, Louis XVI replied to the mediating courts that he was deprived of his hopes for peace by the English court's invariable resolution to regard and treat the Americans as its subjects. Vergennes' language implied that America's dignity required that she should be treated as a party to an agreement, not as a subject asking for pardon, and that France was as attentive to securing the proper recognition of America's place among the nations as to her own interests. The argument that independence was properly the *effect* of the negotiation was not in accord with Vergennes' former contentions, that the grant of independence was no favor which deserved a return, seeing that the Americans had won it already.

[1] *Dip. Corres.*, viii. 135. Jay's views on this point were thus further expressed to Livingston in a later letter, Sept. 18th: "I am persuaded (and you shall know my reasons for it) that this court chooses to postpone an acknowledgment of our independence by Britain to the concurrence of a general peace in order to keep us under their direction until only their and our objects are attained, but also until Spain shall be gratified in her demands to exclude everybody from the gulf, &c. We ought not to let France know that we have such ideas. While they think us free from suspicion they will be more open, and we should make no other use of this discovery than to put us on our guard. Count de Vergennes would have us treat with Mr. Oswald, though his commission calls us colonies, and authorizes him to treat with any description of men, &c. In my opinion, we can only treat as an independent nation and on an equal footing. . . . This court, as well as Spain, will dispute our extension to the Mississippi. You see how necessary prudence and entire circumspection will be on your side, and, if possible, secrecy. I ought to add that Dr. Franklin does not see the conduct of this court in the light I do, and that he believes they mean nothing in this proceeding but what is friendly, fair, and honorable. Facts and further events must determine which of us is mistaken. . . . Let us be honest and grateful to France, but let us think for ourselves."

[2] *Jay MSS.*, ix. 6.

entirely different object from their interests." The only way of retaining them, in that case, as Florida Blanca suggested, would be to convince them that their independence would lack stability if it was not stipulated in a general treaty of peace, and guaranteed by all the powers taking part in the treaty. Meanwhile, he was anxious to gain for the king of Spain the desired delay.[1] A common policy on this point may explain the conduct of Vergennes, which Franklin attributed to a desire of removing every obstacle to speedy negotiations.

"I urged upon Oswald," wrote Jay, "in the strongest terms the great impropriety, and consequently the utter impossibility, of our ever treating with Great Britain on any other than an equal footing, and told him plainly that I would have no concern in any negotiation in which we were not considered as an independent people." Mr. Oswald, upon this as upon every other occasion, behaved in a candid and proper manner. He saw and confessed the propriety of these remarks; he wished the commission had been otherwise, but was at a loss to know how it could be remedied consistently with the king's dignity. Jay accordingly prepared a declaration, alluding to the enabling act and recognizing the colonies as independent States, which, after being corrected by Dr. Franklin, was, August 15th, approved by Oswald, who agreed to recommend it to the minister and forward it the next day. The next day, however, Oswald showed them the clauses in his instructions authorizing him to grant independence, if the commissioners refused to act otherwise; and he dispatched a courier to London to press the ministry for permission to acknowledge American independence without delay. At this time came the commission to Oswald under the great seal, and Franklin and Jay wrote to Versailles to communicate that fact to Vergennes, and, agreeably to their instructions, to inform him of what had passed with Oswald. Vergennes and Jay again discussed the propriety of insisting that independence should be acknowledged previous to a treaty, Vergennes repeating that it was expecting the effect before the cause, with other remarks which did not appear to Jay well founded, and advising them that he had delayed doing business with Mr. Fitzherbert until they should be ready to proceed with Oswald.

The British ministry replied evasively, September 1st, to Oswald's letters, in which he had plainly said, August 17th, of the American commissioners: "Upon the whole, they would not treat at all until their independence was so acknowledged as that they should have an equal footing with us and might take rank as parties to an agreement." "The American commissioners," he wrote on the following day, "will not move a step until independence is acknowledged; until the Americans are contented, Mr. Fitzherbert cannot proceed." When the British reply was shown to Jay he told Oswald that this court was misled; that Townsend's language corresponded exactly with that of Vergennes, whose ideas Mr. Fitzherbert had probably communicated; and Oswald presently admitted that Vergennes

[1] Circourt, 328; *Jay MSS.*, ix. 3; x. 1.

had told Fitzherbert that he thought the commission would answer. Persuaded that the ill success of Oswald's application for liberty to acknowledge American independence was owing to the influence thus exerted by Vergennes, Jay suggested to Oswald, who soon adopted the opinion, that it was the interest of Britain to render America as independent of France as America was resolved to be of England; and he recommended the issuing of a new commission to Oswald to treat of peace or truce with commissioners vested with equal powers by and on the part of the United States of America.

A draft of the proposed declaration was submitted to Oswald by Franklin and Jay, August 15th; but upon Oswald's showing them the clause in his instructions authorizing him to grant independence if the commissioners refused to treat otherwise, they agreed to waive the declaration on condition that their independence should be stipulated in a preliminary article, separate from the rest of the treaty; and on August 17th, after receiving his commission under the great seal, Oswald reported this demand to the ministry, saying that they reminded him of the resolutions of Congress not to treat with British commissioners on any other footing than that of absolute independence. Jay also drew up a letter explaining their point of view, which he put thus: "If the Parliament meant to enable the king to conclude a peace with us on terms of independence, they necessarily meant to enable him to do it in a manner compatible with his dignity, and consequently that he should previously regard us in a point of view that would render it proper for him to negotiate with us. As to referring an acknowledgment of our independence to the first article of a treaty, permit us to remark that this implies that we are not to be considered in that light until after the conclusion of the treaty, and our acquiescing would be to admit the propriety of our being considered in another light during that interval. It is to be wished that his Majesty will not permit an obstacle so very unimportant to Great Britain, but so essential and indispensable with respect to us, to delay the re-establishment of peace."

Franklin thought the letter "rather too positive" in its refusal to treat. "Besides," as Jay wrote to Livingston, "the doctor seemed to be much perplexed and fettered by our instructions to be guided by the advice of this court. Neither of these considerations had weight with me; for as to the first, I could not conceive of any event which would render it proper, and therefore possible, for America to treat in any other character than as an independent nation; and as to the second, I could not believe that Congress intended we should follow any advice which might be repugnant to their dignity and interest." From John Adams his action received hearty endorsement. When the scheme of mediation had been proposed in 1781, Adams had objected to his country being treated as "an insurgent" endeavoring to make terms with a superior power, instead of one sovereignty contracting on equal footing with others; and would accept no arrangement that should place their independence at the mercy of the European powers. The

change now proposed in the wording of the commission was in accord with Adams's suggestion when he wrote to Franklin, May 2, 1782: "If they make a treaty of peace with the United States of America, this is acknowledgment enough for me."[1]

Jay's letter, together with copies of various resolutions of Congress relating to independence, were forwarded by Oswald to London, with a request for a new commission, his efforts to change Jay's view having proved ineffective. A strong argument in favor of the request existed in the desire of England to emancipate the colonies from French control, for Fitzherbert had written on August 17th, describing Vergennes' desire to create new mistrusts and jealousies between Great Britain and America, and saying that he was beginning to learn "what idea I am to entertain of that minister's sentiments and the real extent of that candor and frankness which he never fails to assure me I shall find in him in the course of our negotiation." Grantham in return urged him to try to discover instances of the selfishness of France, in order that Oswald might make proper use of them in the American negotiation, and to watch how the offer of independence affected the French court, and added: "I have reason to believe that the independency of America, however ultimately advantageous to France, would not, if accepted now by the commissioners, be a means agreeable to her, as the band between them would thereby be loosened before the conclusion of a peace." Grantham's suspicions were confirmed by the replies of Fitzherbert and Oswald, the latter of whom wrote on September 11th: "The French court wished the colonies to go on treating without any acknowledgment of independence, and has actually told them that they were seeking for the effect without the cause, since it could only with propriety arise out of the treaty; and so wishing that they should remain unfixed and unsatisfied until their affections and those of their allies are satisfied, and there might then be no fear of check, but rather help, from the American quarter."

Vergennes, meanwhile, endeavored to persuade Jay to accept a compromise. In politics, he said, one should know when to yield the form, if the substance is satisfactory. Jay maintained that there was no halfway mode of recognizing independence, and he prepared a letter to Vergennes, justifying the American attitude by the circumstances of the case and by its historical analogies. This letter, a long and careful abstract of facts bearing upon the case, was under consideration by Franklin when news of Vaughan's success and the order for the new commission made it unnecessary.[2]

The failing confidence in Vergennes experienced by the American commissioners was not increased when Jay received further proofs that the minister was inclined to gratify England and Spain at the expense of American interests, — proofs which tended to recall the fact that the instructions of Congress had been based on the pledges of Luzerne that "the king would

[1] *Dipl. Corresp.*, vi. 344. [2] *Ibid.* viii. 147, 169.

most readily employ his good offices in support of the United States in all points relating to their prosperity."

Jay's illness deferred the discussion of an alliance with Spain for more than a month after his arrival at Paris. In his first conference with D'Aranda, the latter at once broached the subject of boundaries, and argued that Spain had acquired a right to the Western country by her conquest of West Florida and posts on the Mississippi and Illinois, and that such part of it as did not belong to her was the territory of Indian tribes.[1] Jay proposed, therefore, a longitudinal line east of the Mississippi, from a lake near the confines of Georgia to the confluence of the Kanahwa with the Ohio, and thence to Lake Erie. A map marking this boundary was left by Jay with Vergennes, who cautiously withheld his opinion; but Rayneval, his confidential secretary, said that he thought the Americans claimed too much. On September 4th, Rayneval invited Jay to Versailles to talk the matter over, and at Jay's request he submitted a memoir upon the boundaries, as expressing his "personal ideas." This paper begins by assuming that the Americans can claim the Western lands only on the ground that they belonged to England, and then shows that England renounced her right to them, first in 1755, when she allowed Ohio to belong to France, and the lands west of the Alleghanies to be Indian territory; secondly, in the peace negotiation of 1761, when she again acknowledged the Indian rights; and thirdly, by the proclamation of 1763, which declared that the lands in question were situated between the Mississippi and the ancient English establishments. Similarly, Spain could not claim beyond the Natches, or latitude 31° north, and proposed, therefore, a line along the rivers Cherokee and Cumberland to the Ohio; the Indians west of this line to be free, under the protection of Spain, and those east of it to be free, under the protection of the United States. The course and navigation of the Mississippi would naturally belong to the nations owning its banks; therefore only in part to Spain, and not at all to the United States. Lands north of the Ohio were to be left to the decision of England.[2]

In Rayneval's paper Jay recognized the hand of his chief.[3] In writing to Luzerne, July 21, 1783, to defend himself from the charge of having

[1] *Dipl. Corresp.*, viii. 150.

[2] *Ibid.* viii. 154, 156.

[3] Gérard Rayneval, younger brother to Gérard, the French minister to America, had been at the head of the staff of the foreign department from 1774 to 1792, and was employed by Vergennes as his confidential agent. "It was not to be believed," Jay wrote, "that the first and confidential secretary of the Count de Vergennes would, without his knowledge and consent, declare such sentiments and offer such propositions, and that, too, in writing."

"We must be very ignorant of all courts," John Adams wrote of this memoir in 1783, "not to know that an under-secretary of state does not carry on such a correspondence without the knowledge, consent, and orders of his principal" (*Dipl. Corresp.*, vii. 68). Fitzherbert, the English commissioner, reached the same conclusion when Rayneval gave him his opinions on the fishery question (*Jay MSS.*, iv. 2): "Though M. de Rayneval added that he said it merely from himself, and without any kind of authority from M. de Vergennes, it is natural to suppose that his ideas and language upon this and other political subjects must be nearly the same as those of his principal."

opposed the American boundary claims, Vergennes alluded to this memoir as expressing merely Rayneval's personal views, and therefore, he said, "it might be considered as non-existent in relation to the king's ministers." [1] But in giving an account of the discussion to Luzerne, October 14, 1782, Vergennes referred to Rayneval's memoir as one sent with his knowledge and sanction. Describing the boundary claims made by Congress as "*un délire*," he added with a caution that the advice was for Luzerne's ear alone: [2] "A confidential note has been sent to Mr. Jay, in which it is almost proven that the boundaries of the United States south of the Ohio are confined to the mountains, following the watershed." That confidential note was in accord with Vergennes' instructions to Luzerne, and with Luzerne's advice to Congress; and in these instructions there is no attempt to conceal or soften his opinion of the American claims, as defined by the American commissioners. "The American agents," he wrote, "do not shine by the soundness of their views or the adaptation thereof to the political situation of Europe; they have all the presumption of ignorance. But there is reason to believe that experience will erelong enlighten and correct them." [3] Regarding Rayneval's paper as expressing the views of Vergennes, it was clear to Jay that the French minister would oppose their extension to the Mississippi and their claim to its navigation; that he would probably support the British claim to the country above latitude 31° north, and certainly to all the country north of the Ohio; and that in case they refused to divide with Spain in the manner proposed, he would secure from Britain the territory Spain wished for, and agree that the rest should be left to Britain.[4]

On September 10th, four days after Jay received Rayneval's paper, an intercepted letter from Marbois, the able secretary of Luzerne at Philadelphia, was transmitted to him through English hands.[5] It was addressed to Vergennes, and gave him an account of the agitation started at the beginning of 1782 for an enforcement of the fishery claims. As a means of preventing the success of the agitation, Marbois suggested that France should openly declare her surprise at the Americans claiming a share in the Newfoundland fisheries without paying regard to the king's rights, or that the conquest of Cape Breton should be attempted. He concluded by saying that it was unlikely that England would wish the Americans to share in the Newfoundland fishery; but in any case "it will be better to have declared at an early period to the Americans that their pretension is not well founded, and that his Majesty does not mean to suggest it." Franklin was unwilling to believe that the letter reflected the views of the French ministry.[6] "You will hear much," he said in a private communication, "of an intercepted letter communicated to us by the British ministry. The channel ought to be suspected. It may have received additions and alterations;

[1] *Jay MSS.*, iii. 14.
[2] Oct. 14, 1782. Circourt, iii. 290.
[3] Circourt, i. 291.
[4] *Dipl. Corresp.*, viii. 160.
[5] Jay's *Jay*, i. 490.
[6] Sparks's *Franklin*, ix. 463 (Dec. 6).

but supposing it all genuine, the forward, mistaken zeal of a secretary of legation should not be imputed to the king." Writing September 7, 1783, Vergennes took the same line of defence. "The letter," he said, in self-vindication, "by a forced interpretation, was designed to render us suspected in regard to the fisheries. In the first place, the opinion of M. de Marbois is not necessarily that of the king's; and in the next place, the views indicated in that despatch have not been followed." The genuineness of the letter was placed beyond doubt by Marbois himself, who many years later, in conversation with the late William Beach Lawrence, the learned editor of Wheaton's *International Law*, admitted the substantial accuracy of the translation. The letters of Luzerne written at the same period recommend that France should combine with England to exclude the Americans from the fisheries; and in this Luzerne was simply carrying out the instructions of Vergennes, who had impressed upon him that the Americans had no right whatever to British fisheries.[1] Only a few days before Jay received Marbois's letter, Rayneval had told Fitzherbert that "nothing could be further from the wishes of his court than that the claim (of the Americans to a share in the Newfoundland fishery) should be admitted, and moreover that we (the English) on our parts were not only bound in interest to reject it, but that we might do so consistently with the strictest principles of justice." Vergennes was equally emphatic. According to Fitzherbert, he never failed "to insist on the expediency of a concert of measures between France and England for the purpose of excluding the American States from these fisheries, lest they should become a nursery for seamen."

While the confidential correspondence of Vergennes exhibits a marked contempt for the policy of Spain, as narrow and selfish even towards France itself, apart from its repugnance to American independence, it does not appear that the systematic opposition exhibited by Vergennes to the American claims, after the treaty of Aranjuez, in his letters to his agents at Madrid and at Philadelphia, however it may have been agreed upon as a part of the price demanded by Spain for entry into the war, was opposed to the views and policy of Vergennes as the chief exponent of the policy of France and of the political ideas of Europe. His arguments were elaborate and apparently sincere, to prove that the Americans had absolutely no claim to the coast fisheries, viewing the United States as colonies, whose colonial titles had been forfeited when they ceased to be colonies, and declining to view them as sovereign and independent States, on an equal footing with Great Britain. On the same colonial ground he held the American pretensions to boundaries an illusion, and attempted to demonstrate the fitness of confining the American States to a narrow strip along the Atlantic, surrounded by the possessions of European powers, where they would be made to feel the need of sureties, allies, and protectors. The detached hints to this effect let fall by Vergennes in his correspondence with Gérard, Luzerne, and Montmorin, were formulated in me

[1] *Jay MSS.*, iv.

moirs still preserved in the archives of France. Those memoirs, whether prepared under Vergennes's direction or submitted to his approval, are not simply consistent in principle and generally in harmony with the views which we know to have been held by Vergennes, but they seem to represent the drift of something more than ministerial opinion, and especially the views which it was deemed most important to commend to the English ministry, whose co-operation was essential to the success of the French and Spanish scheme for curtailing the boundaries and dominions of the republic, and retaining them under the European balance-of-power system.[1]

Since the tide of success had turned in America's favor, French philosophers and statesmen had begun to see in her a possible antagonist. The chivalrous enthusiasm which had embraced the cause of liberty against oppression, was now giving way to a philosophic fear of the consequences to Europe and to the European possessions in America which might spring from a new and vigorous nationality. Raynal, in the new edition of his *History of the Two Indies*, wished the United States to be restrained from overgrowth, just as Vergennes had repudiated the idea of their being allowed to monopolize the continent. This was only part of a general reaction which was setting in against the American cause, largely owing to the expense of the war. The king said, in April of this year, that it was very dear to help people from whom neither fealty nor compensation could be expected; and the war, according to Fitzherbert, was universally reprobated. "The fashionable language is at present that France has been during its whole progress the dupe of her allies, the Americans and Spaniards."

To the two incidents alluded to (the memoir of Rayneval on the boun

[1] The memoirs, referred to as to be found in the French foreign department under the head of "Angleterre," are chiefly devoted to showing that it is the interest of France to prevent the United States from extending their boundaries or spreading their revolutionary ideas. If the boundaries, they argued, were left indefinite, the extent of land at the disposal of the colonists would invite immigration and thereby injure Europe. Moreover, the Americans would be enabled to push their way north and west, and to seize the fisheries, the fur trade, and the mines of New Mexico. Their ambition, therefore, must be restrained by surrounding them with nations capable of co-operating to oppose their schemes. Thus England must be allowed to consolidate herself east and north of them, Spain must hold Florida, and the United States must be enclosed by the Alleghanies. The boundaries must be drawn with the greatest exactness, and all the belligerent powers must bind themselves to prevent their being transgressed. The ease with which England gained possession of American commerce should be a warning to the powers interested, in order that they may not exchange one bondage for another; and although France, in supporting America, did not intend to stimulate her revolutionary ardor, her aid is producing a dangerous impression upon the nations in this part of the world who think themselves oppressed, — considerations which show the necessity for England, Spain, Holland, and France to take precautions against the insurgents. As to the fishery, the insurgents being no longer English, it is England's interest to exclude them from privileges which would be their easiest means of enriching themselves, and to share the Newfoundland fishery exclusively with France.

Another memoir, by "Bruny," dated July 2, 1782, uses similar arguments. He shows that the loss of America will be only a temporary injury to England, but that in the end it will drain Europe of her trade and resources. France and England, therefore, should unite to check the progress of America.

daries, and the intercepted letter of Marbois on the fisheries) as having confirmed Jay's opinion that America was to encounter the joint hostility of France and Spain on these points, was added a third. He had learned, on September 9th, that Rayneval, who on September 6th, in sending him the memoir, had stated in a postscript that he should be absent for some days, and who was reported to have gone to the country, had in fact, on the 7th, after a conference at Versailles with Vergennes and Aranda, departed for England with special precautions, among which, it appears, was his travelling under an assumed name, for keeping his destination a secret.

In view of the fact that Vergennes had endeavored to frustrate the efforts to secure a new commission acknowledging American independence, by advising Fitzherbert that the commission to treat with colonies or plantations was sufficient, and of the consideration that the joint scheme of France and Spain for shutting out the United States from the Mississippi, the Gulf, the lakes, and the fisheries could only be accomplished by the approval and aid of Great Britain, Jay deemed it a reasonable conjecture that the mission of Rayneval was intended to let Shelburne know that the demand of America to be treated as independent previous to a treaty was not countenanced by the French court, and also to sound Great Britain on the subject of the fishery, and to discover whether Britain would divide it with France, to the exclusion of all others. He also deemed it probable that Rayneval was to impress Lord Shelburne with their desire to keep the Americans from the Mississippi, and to hint the propriety of a line that would satisfy Spain on the one hand, and would on the other leave to Great Britain all the country north of the Ohio. Jay mentioned the matter cautiously to Oswald, but on reflecting how necessary it was that Lord Shelburne should know the American sentiment and resolution respecting these matters, and how much better they could be conveyed in conversation than by letter, and knowing that Vaughan was in confidential correspondence with Shelburne, and strongly attached to the American cause, Jay concluded that it would be prudent to prevail upon him to go immediately to England. Vaughan agreed to go, and dispatched a few lines to Lord Shelburne, desiring him to delay taking any measures with Rayneval till he should see or hear from Vaughan.

"It would have relieved me," wrote Jay to Livingston, "from much anxiety and uneasiness to have concerted all these steps with Dr. Franklin; but on conversing with him about M. Rayneval's journey, he did not concur with me in sentiment respecting the object of it, but appeared to me to have great confidence in the Count, and to be much embarrassed and constrained by our instructions." "Facts and future events must determine which of us is mistaken. Let us be honest and grateful to France, but let us think for ourselves."

Vaughan, furnished with the views to be presented to Shelburne, left for England on the 11th of September, and Shelburne was notified of his coming both by Oswald and Fitzherbert. Oswald wrote that it was

thought that Rayneval was sent to advocate the interests of Spain. "That court," he said, "wishes to have the whole of the country from West Florida, of a certain width, quite up to Canada, so as to have both banks of the Mississippi clear, and would wish to have such a cession from England before a cession to the colonies takes place. The Spaniards have the whole French title, and would gladly complete it by patches from the English pretensions, which they could not hope for once we have agreed with the colonies. If that gentleman goes over there can be no difficulty in amusing him." Fitzherbert took it as an "apparently favorable symptom of the French wish to bring the negotiations to a happy conclusion." "I understand," he added, "that he (Rayneval) is a man of great moderation, and (allowing for his education in this school of politics) not much addicted to artifice or intrigue."[1] Rayneval, it seems, was of smooth manners and quick and unpretentious appearance — characteristics which drew upon him the dislike of George III. "The art of M. de Vergennes," he wrote to Shelburne, "is so well known that I cannot think he would have sent him if he was an inoffensive man of business, but that he has chosen him for having that appearance, while armed with cunning, which will be more dangerous if under so specious a garb."

His mission combined other objects with that assigned to it by Jay and confirmed by Rayneval's course on the American claims. It seems to have been suggested by a message brought to Vergennes by De Grasse, the French admiral, now a prisoner on parole, who professed to have had an interview, when passing through London, with Shelburne, and to have received certain proposals from the English minister to carry to Vergennes.[2] Surprised at the favorableness of these proposals, and wondering if they were authentic, Vergennes enclosed them to Montmorin on August 18, for the approval of Spain. Montmorin replied that Florida Blanca was equally startled at their nature, and wished some one to be sent to England to find out if they were genuine. Vergennes decided to send Rayneval. "His return," he wrote, "will enlighten us as to the disposition of the English ministry for peace." On September 6, Rayneval received instructions which directed that he should go incognito, and after obtaining an interview with Shelburne should ask him whether his intentions corresponded to the proposals brought by De Grasse. If Shelburne disavowed them, Rayneval was to declare his mission ended. But he was permitted to enter into general conversation on the chief points of the treaty, and upon this understanding he spent a week (September 13 to September 20,) and held several conversations with the English ministry. While the avowed purpose of the visit had no reference to American questions, and while his written instructions may not have authorized their

[1] *Jay MSS.*, xiii. 1; Fitzmaurice, iii. 258.

[2] *Jay MSS.*, xiii. [There is among the *Sparks MSS.* (xlix. i. 15) a "Correspondance entre le Comte de Grasse, Lord Shelburne et le Comte de Vergennes, relativ au traité de paix, 1782–1783," which was sent to Sparks by Lafayette. — ED.]

discussion, it appears that the southern and western boundaries, the Mississippi, and the fisheries were introduced and discussed in the manner anticipated by Jay.

Shelburne was accompanied in the interview by Lord Grantham; and Shelburne's biographer, after giving some account of the conversation on topics relating peculiarly to France and Spain, says: "They then proceeded to speak about America. Here Rayneval played into the hands of the English ministers by expressing a strong opinion against the American claims to the Newfoundland fisheries and to the valley of the Mississippi and the Ohio." This would appear to have been the first time that the scheme for perpetuating the power of Spain in America by the enfeeblement from its birth of the new republic — the scheme whose adoption by France was made the condition of Spain's entrance into the war — had been personally presented by a representative of the two courts to the English ministry, on whose approval it must depend. Shelburne's biographer adds: "These views were carefully noted by Shelburne and Grantham."

Vaughan had arrived almost simultaneously with Rayneval, and the views which Vaughan was requested to present to the minister derive interest from the success which attended his mission, and the singular confidence in the American commissioners with which Shelburne appears to have been inspired by Vaughan's presentation of their ideas. As given in Jay's letter to Livingston, they appealed to the common sense and the true interests of Great Britain, and covered the principal points on which England was hesitating, and where the influence of France was arrayed against the Americans.[1]

These views reminded the ministry that Britain, by a peace with the Americans, certainly expected other advantages than a mere suspension of hostilities, and that she doubtless looked forward to cordiality, confidence, and commerce; that the manner as well as the matter of the proposed treaty was therefore of importance, and that if the late assurances respecting American independence were not realized by an unconditional acknowledgment, neither confidence nor peace could reasonably be expected; that this measure was considered by America as the touchstone of British sincerity, and that nothing could abate the suspicions and doubts of her faith which prevailed there. That the interest of Great Britain, as well as that of the minister, would be advanced by it, for, as every idea of conquest had become absurd, nothing remained for Britain to do but to make friends of those whom she could not subdue; that the way to do this was by leaving them nothing to complain of either in the negotiation or in the treaty of peace, and by liberally yielding every point essential to the interest and happiness of America, — the first of which points was that of treating with the Americans on an equal footing. That any expectations grounded on the affected moderation of France would be fruitless, although they might produce delay, for America would never treat except on an equal footing; that

[1] *Dipl. Corresp.*, viii. 165, 617.

a little reflection must convince Lord Shelburne that it was the interest, and consequently the policy, of France to postpone, if possible, the acknowledgment of American independence to the conclusion of a general peace, and, by keeping it suspended until after the war, oblige the Americans, by the terms of the treaty and by regard to their safety, to continue in it to the end; that it hence appeared to be the obvious intent of Britain immediately to cut the cords which tied America to France, for that, though they were determined faithfully to fulfil their treaty engagements with the court of France, yet it was a different thing to be guided by the French or the American construction of them. That, among other things, they were bound not to make a separate peace or truce; and that the assurance of their independence was avowed to be the object of the treaty of alliance. While, therefore, Great Britain refused to yield this last object, they were bound as well as resolved to go on with the war, although perhaps the greatest obstacles to a peace arose neither from the demands of France nor America; whereas, that object being conceded, they should be at liberty to make the peace the moment that Great Britain should be ready to accede to the terms of France and America, without being restrained by the demands of Spain, with whose views they had no concern.

The suggestions with which Vaughan was charged further touched upon the facts that America would not conclude a peace without the fisheries, and that an attempt to exclude them would irritate America and tend to perpetuate her resentment; that their right to extend to the Mississippi was proven by their charters, and their right to its navigation was deducible from nature; that the true object of an European commercial nation was to secure the profits of an extensive and lucrative commerce, and not the possession of vast tracts of wilderness; that to attempt to retain that country by extending Canada, would be to sow the seeds of future war in the very treaty of peace; and that it certainly could not be wise for Britain "to lay in it the foundation of such distrust and jealousies as, on the one hand, would ever prevent confidence and real friendship, and on the other lead the Americans to strengthen their security by intimate and permanent alliances with other nations."

Vaughan had been requested by Jay, in presenting these views to Shelburne, to impress upon that minister the necessity of taking a decided and manly part respecting America, and there was probably no other man whose position, sympathies, and intimate relations[1] with Shelburne so well fitted him for the delicate task, which he accomplished with promptness, discretion, and success.

The immediate effect of Vaughan's mission was the resolve of the ministry to issue a new commission to Oswald, in the form prepared by Jay, to treat with "the United States of America." "Lord Lansdowne,"

[1] The regard felt for him in Shelburne's family was evidenced by the fact when Lord Shelburne lost his second wife, that during her illness Benjamin Vaughan and Bentham were the only persons permitted to see her.

Vaughan wrote subsequently, when Shelburne had come to that title, "only asked me, Is the new commission necessary? and when I answered Yes, it was instantly ordered, and I was desired to go back with it, carrying the messenger who had charge of it in my chaise. As to M. Rayneval, my previous letter and his lordship's own good sense made it needless to touch upon the subject, which I found Lord Lansdowne not inclined to do; the grant of the commission showed how things stood, and I departed joyfully."

Lord Edmond Fitzmaurice says, after noting the arrival of Vaughan: "It became clear to the cabinet that a profound feud had sprung up between the Americans and their European allies, and that all that they had to do was to avail themselves of it. They at once decided to accept the American proposition as to the terms of the commission, which Lord Ashburton held came within the meaning of the Enabling Act."[1] The language of Shelburne to Oswald (September 23, 1782) indicates that Vaughan was correct in regarding the granting of the commission as indicating a marked change of policy in favor of the Americans, — a change so complete that they hardly knew how it would result. "Having said and done everything which has been desired," he adds, "there is nothing for me to trouble you with except to add that we have put the greatest confidence, I believe, ever placed in man in the American commissioners. It is now to be seen how far they or America are to be depended upon. I will not detain you with enumerating the difficulties which have occurred. There never was such a risk run. I hope the public will be the gainer, else our heads must answer for it, and deservedly."

Rayneval wrote a minute account to Vergennes of his conversations during this visit,[2] and some thirteen years afterwards he described its purpose and results in a letter (November 14, 1795) to Mr. Monroe, at that time the American minister, in which he endeavored to defend himself from the charge of having advised Shelburne to refuse the American demands. In this letter[3] he said, that the fundamental article of his instructions[4] was the independence of the United States, and that nothing was prescribed in relation to other conditions to be made with the American commissioners; that he encouraged no discussion on this point, and when the English minister introduced it he took refuge in his ignorance and lack of instructions; and that in the opinions which he did express he rather strengthened than weakened the demands of the American commissioners.[5]

The Honorable Charles Francis Adams, whose diplomatic skill rivalled that of his illustrious father and grandfather, in an examination, made before the publication of Shelburne's *Life*, or of the text of Rayneval's report of the conferences to Vergennes, said that, "Without uttering a single

[1] Fitzmaurice, iii. 267.

[2] Circourt, iii. 42, 49.

[3] In Rives's *Life of Madison*, i. 655.

[4] In Circourt, iii. 38.

[5] That Rayneval's memory was not exact in regard to the proceedings of which he was writing is evident from a passage describing the occasion of his memoir upon the boundaries, in these words: "Mons. Jay and Aranda chose me to bring them together [*rapprocher*], and I gave them my advice in writing. Mr. Jay agreed with me as to its justice and solidity."

word that could be used to commit him or his government, M. de Rayneval had succeeded in making Lord Shelburne comprehend that France was not inclined to prolong the war by supporting America in *unjust* claims." [1] It is clear from Shelburne's *Life* that he succeeded in making Shelburne and Grantham understand that the American claims to the western and northern boundaries, the Mississippi, and the fisheries were of that character, and that in opposing them he was playing into their hands.

On September 24th Townsend wrote to Oswald: "I now send you the commission, which has met with no delay more than was absolutely necessary for the forms through which it would pass. I hope the frankness with which we deal will meet with a suitable return." "On September 27th," wrote Jay to Livingston, "Mr. Vaughan returned here from England with the courier that brought Mr. Oswald's new commission, and very happy were we to see it." And he added an assurance that "Mr. Vaughan greatly merits our acknowledgments."

Three years before it had been proposed in Congress that the American minister should make it a preliminary to any negotiation "that Great Britain shall agree to treat with the United States as free, sovereign and independent States." That condition, after delays and difficulties which had seemed almost insurmountable, had been fulfilled, and the United States was to enter upon the negotiation not as insurgent colonies or plantations, soliciting independence and asking concessions from the power from which they have revolted, but as a sovereign and independent power of equal dignity, to make what an English judge called "a treaty of separation" for the mutual allotment of boundaries, and the division of the American sovereignty between the ancient monarchy and the young republic.

The day (September 26) before the arrival of the new commission with England's recognition of her late colonies as the thirteen United States of America was marked by another fruitless effort on the part of the representatives of France and Spain to induce the American commissioners to enter into negotiations with the court of Madrid, while that court still refused to recognize the independence of the republic.[2] This interview closed

[1] *Life and Works of John Adams*, i. p. 370 *et seq.* Cf. Flassan, *Hist. de la diplomatie Française*, vii. 344.

[2] The interview took place at Versailles, where in the ante-room of the French minister, Jay met Lafayette and D'Aranda, who introduced the subject of a treaty with Spain, and asked when they should proceed to business. Jay replied as soon as the ambassador should do him the honor of communicating his power to treat. He asked whether the Count de Florida Blanca had not informed Jay of his being authorized. Jay admitted it, but observed that the usual mode of doing business rendered it proper that they should exchange certified copies of their respective commissions. D'Aranda said that that could not be expected in this case; for that Spain had not yet acknowledged the independence of America. Jay replied that they had declared their independence, and that France, Holland, and Britain had acknowledged it. Here Lafayette took up the subject, and told the ambassador, among other things, that it would not be consistent with the dignity of France for her ally to treat otherwise than as independent, a remark which appeared to pique the count not a little.

Vergennes, on coming in and finding the conversation earnest, inquired if they could not agree. The ambassador stated Jay's objection. Vergennes said he certainly should treat with the *ambassador*, and that it was proper they should make a treaty with Spain in the same manner that they had done with France. Jay told him that he desired nothing more, and that

the negotiation in Europe between the American commissioners and Spain, which ended as it had begun, with the refusal of Spain to recognize the independence of the United States.[1]

The American negotiation, after a slight delay caused by the illness of Franklin, was now begun, and with favorable prospects of success, from the new and hopeful features developed by the mission of Vaughan. The argument and appeal with which Vaughan had been charged, and which had wrought so instant a change in the English disposition, gave force and meaning to Vaughan's conviction that the granting of the commission showed where the British ministry stood, and justified the belief that Shelburne and his associates, despite the skill with which Rayneval had played into their hands to induce them to sacrifice the American claims to the Mississippi, the Ohio, and the fisheries, would prefer friendship with the American republic to an alliance with France and Spain for its enfeeblement.

To Oswald, on his side, the granting of the commission was a compliance with his advice, and he had the assurance of Shelburne's readiness to say and do all that had been demanded, and of his large confidence in the American commissioners.

The gratitude of Americans to France for her timely and effective aid in money and men, and their steadfast adherence to their engagements, had nearly defeated all hopes of the separate negotiation which England so earnestly desired, until now the efforts of the French court to sacrifice American claims to her own policy and that of Spain had made the

the commission to M. Gérard, and the reason assigned by the court of France to the king of Great Britain for entering into alliance with them, pointed out both the manner and the principles which were observed and admitted on that occasion.

Vergennes observed that Spain did not deny our independence, an acknowledgment of which would naturally be the effect of the treaty proposed to be formed. "I told the count," wrote Jay, "that, being independent we should always insist on being treated as such, and therefore it was not sufficient for Spain to forbear denying our independence while she declined to admit it, and that, notwithstanding my respect for the ambassador, and my desire of a treaty with Spain, both the terms of my commission and the dignity of America forbade my treating on any other than an equal footing."

On the retirement of the ambassador, Vergennes referred to Oswald's new commission as enabling them to go on and perform their preliminaries, alluded to Rayneval's visit to learn whether a pacific disposition prevailed at the British court, and turned next to the negotiations with Spain and her claims east of the Mississippi, suggesting that as soon as they could agree upon the boundaries the Count D'Aranda would have a more formal commission to conclude the treaty.

Jay next saw Rayneval, who gave the same reason for his journey to England that had been given by the count, and then talked of his memoir and urged its views. Jay alluded to the result of the Spanish claims in regard to the Mississippi, and gathered from his reply that Spain had been shortly before furnished with ideas by France.

[1] It has been remarked as an incident in contrast with the refusal of Spain to acknowledge American independence, and her elaborated schemes for dwarfing the power and dignity of the young republic, that when the attempt at negotiation was next attempted and with equal unsuccess, it was by Don Diego Gardoqui, the Spanish minister to the United States, when his excellency was received by Jay, then secretary for foreign affairs, and was presented to the President and members of Congress, who kept their seats and remained covered, while the plenipotentiary of Spain stood uncovered before the legislators of America, and assumed the part affected by monarchs, declaring the affection of his master for his "great and beloved friends."

protection of the dignity and rights of the republic against danger, from whatever quarter, the first business of the American commission, and had induced the communication by Vaughan which had influenced the policy of the court, and inclined Shelburne, in the matter of the commission, the boundaries, and the fisheries, to reject the counsels of Vergennes, the overtures of Rayneval, and the policy of the Bourbons, and to respond promptly to the claims of the Americans.

With such views on both sides and a common conviction of the importance of an early settlement of the question, the British and American commissioners soon came to an agreement, and presently (October 5) Jay handed to Oswald the plan of a treaty, to the terms of which Oswald assented (October 8), and which he promptly transmitted to the foreign office for his Majesty's consideration.

It consisted of a preamble and four articles relating to the boundaries, a perpetual peace, the fisheries, and the navigation of the Mississippi.[1] The boundaries assigned to the United States on the Canadian border involved questions which had been in dispute from an early period, and on which England had not always held a consistent policy. While France possessed Canada, England did not admit that the land north of the St. Lawrence belonged to that province; but their claim was abandoned after the peace of 1763, when the western boundary of Nova Scotia was declared to be the St. Croix, and a line drawn due north from the source of that river to the southern boundary of Canada. In the absence of accurate surveys, the point known as "the northwest angle of Nova Scotia" had never been correctly determined, and the project submitted by Jay proposed to adopt the rivers St. John and the Madawaska as the eastern boundary, to settle the position of the northwest angle, and then to draw the southern boundary of Canada according to the terms of the treaty of 1763.

No provision was made for debts contracted prior to 1775, nor for compensation to the loyalists. Townsend had written to Oswald when an acknowledgment of independence was demanded from England, offering to waive stipulations on these points for the sake of hastening the negotiation, and it would seem that Oswald had also been authorized to yield them.[2]

Oswald (October 11) alluded to recommendations in his instructions which had been omitted in the proposed treaty, such as provision for debts, compensation to the loyalists, pardon of supposed crimes, release of prisoners, drying fish in Newfoundland, federation, value of ungranted lands, independence of all nations; but this did not prevent his belief that the treaty would be adopted as it stood, and he wrote: "I look upon the treaty as now closed." Oswald was anxious to conclude with the American commissioners while free from the influence of France.[3]

[1] *Dip. Corres.*, x. 88, 92.

[2] Fitzmaurice's *Shelburne*, iii. 281.

[3] "Mr. Jay said to me last night," he wrote (Oct. 8), "once we have signed this treaty we shall have no more to do but to look on and see what people are about here. They will not like

The French, he saw, were anxious to hold back the American negotiation until they were ready to execute their own treaty. For this reason, Oswald was the more ready to accept the proposition, and wished for an immediate signature. The English ministry were also sensible of the advantageous effect which a speedy settlement with America might have on their negotiation with France and Spain. But while the articles were under consideration there came news of the victorious relief of Gibraltar, an event which materially improved the English situation as regards those powers, and seemed to afford a possibility at least of recovering something of what had been yielded to America by Oswald.[1]

The long delay of the American negotiations while awaiting a proper commission had arrested the negotiations with France and Spain, and the arrival of the new commission brought by Vaughan, enabling the American negotiation to proceed, seems to have simultaneously set in motion the diplomatic machinery of France and Spain. On October 5th, Jay handed to Oswald the American Articles, which had been drawn up by Jay very

to find we are so far advanced, and have for some time appeared anxious and inquisitive as to our plan of settlements, upon which subject I was lately tried by a certain marquis, but I gave him no satisfaction, and wish that for some time as little may be said about it as possible." Oswald had been previously alarmed by the suggestion that the commissioners might interfere on behalf of the other belligerents. "I wish I may be mistaken in thinking that they have taken those States under such protection as that they shall not likewise, before the close of the business, be found to act the part of dictators to Great Britain." On Oct. 2 he had hinted to Jay that it was hard that France should introduce her private engagements into the negotiation, to which Jay instantly replied: "We will allow no such thing; we shall say to France, The agreement we made with you we shall faithfully perform, but if you have entered into any separate measures with other people not included in that agreement, and will load the negotiation with their demands, we shall give ourselves no concern about them." Under these circumstances Oswald thought it good policy to conclude with the Americans without delay.

[1] The news from Gibraltar in October seemed to complete the great naval triumph achieved by Rodney on April 12th over the powerful French fleet of 35 ships, with troops, guns and ammunition collected at Martinique for the capture of Jamaica. Before they could be joined by the Spanish fleet, Rodney had attacked them with tremendous force, and without losing a single ship, and with a loss of only 100 men, he had destroyed eight vessels of the French, whose loss in killed and wounded was reported at 9,000 men. Rodney had been appointed by North, and a letter of recall had been sent him before the news of his victory, enabling North to say to the minister in Parliament: "You have conquered, but with the arms of Philip." Next came the grand attacks by France and Spain upon Gibraltar, whose capture France had bound herself to accomplish, even at the expense of continuing the war. The siege was conducted by the Duke de Crillon, the conqueror of Minorca, with some 40,000 French and Spanish land troops, and a combined French and Spanish fleet with newly constructed battering-ships, while Sir George Elliot commanded the fortress with 7,000 men.

The grand attack, after an unusual note of preparation, and the representation of the capture of Gibraltar on the Paris stage, began on September 13th with a cannonade from 47 ships of the line, frigates, gunboats, mortar-boats, and smaller craft, with ten large battering-ships and land batteries, numbering 186 guns. The fortress replied to the ships with red-hot shot, with great effect, aided at the close by a squadron of English gunboats, so that many ships were burnt and the whole fleet of battering-ships destroyed, and 2,000 of the attackers killed or captured, while the English loss in killed and wounded was but 90 men; and as Lecky (iv. 266) remarks after a graphic sketch of the conflict, "the invincible fortress, almost uninjured by the cannonade, still looked down defiantly on the foe."

The disappointment in France and Spain was extreme, and the last hope of capturing Gibraltar was extinguished in October, when Lord Howe, evading the combined fleets of France and Spain, succeeded in relieving the fortress and supplying everything essential to a prolonged resistance, after a siege which had lasted more than three years.

fully, and the next day Vergennes handed to Fitzherbert two memorials containing the demands of France and Spain. Those of France, in addition to concessions in the West Indies of Dominica and St. Lucia, and of the river Senegal and the island of Goree, which had been expected, included several unexpected demands in India, beside the concession of an exclusive right of fishing off Newfoundland from Cape St. John to the Pointe à la Lune, and one or more islands to be fortified. The demands of Spain were still more extreme, and included the cession of Minorca, of English rights in Honduras and Campeachy, of the Mosquito shore, of all Florida, of the Bahamas, of the Isle of Providence, and lastly of Gibraltar; for which Oran and Mazalquiver were offered as some compensation.[1]

The great victory of Gibraltar, as Shelburne's biographer tells us, at once determined the British cabinet to withstand the demands of France and Spain; and he adds: "Realizing also that the feud between the European belligerents and the United States was already tolerably deep, and that the latter would not in any case continue the war for purely Spanish objects, they resolved to attempt to gain a modification of the American demands as well, in favor of the English creditors and of the loyalists, — points to which Shelburne attached a greater importance than some of his colleagues. Oswald had yielded on them in conformity with the express direction of the cabinet; they therefore thought it but just to take part of the responsibility of taking the new demands off his shoulders, and accordingly sent an additional negotiator to his assistance."[2]

This was Mr., afterwards Sir Henry Strachey, the secretary of Clive and of Lord Howe's commission, secretary of the treasury under Rockingham, and now under-secretary in Townsend's department, where he was known, says Lord Edmond Fitzmaurice, as a man of great discretion and accuracy. Lord Shelburne explained his coming with the remark, "Mr. Strachey is a most amiable, well-instructed man, and it was judged proper that some person should be sent to explain the boundaries and the authoritative documents which were only to be found here."

The biographer of Shelburne, who has thrown so much light upon the negotiation from his ancestor's papers, — light that has dispelled the mist and doubts which hung around the missions of Rayneval and Vaughan, — has, with the instructions of Strachey,[3] given an explanation of their motive, which goes far to relieve the British cabinet from the charge, so vehemently made against them in Parliament and by the press, of a shameless indifference to the cause of the loyalists in America, who had adhered to the crown, and who were deemed entitled to protection.[4]

[1] Fitzmaurice's *Shelburne*, ii. 274, 275.

[2] *Ibid.* iii. 280, 287.

[3] *Ibid.* iii. 281.

[4] Lecky, iv. 285; *Parl. History*, xxiii. 452. "What," said Lord North, "are not the claims of those who, in conformity to their allegiance, their cheerful obedience to the voice of Parliament, their confidence in the proclamation of our generals, invited under every assurance of military, parliamentary, political, and affectionate protection, espoused with the hazard of their lives and the forfeiture of their properties, the cause of Great Britain!" Protection and relief in similar cases had been given at the peace

Strachey left, says Fitzmaurice, "with instructions to urge the claims of England, under the Proclamation of 1763, to the lands between the Mississippi and the western boundary of the States, and to bring forward the French boundaries of Canada, which were more extensive at some points than those of the Proclamation of 1763. He was to urge these claims, and the right of the king to the ungranted domain, not indeed for their own sake, but in order to gain some compensation for the refugees, either by a direct cession in their favor, or by engaging the half or some proportion of what the back lands might produce when sold, or a sum mortgaged on these lands, or by the grant of a favorable boundary of Nova Scotia, extending, if possible, so as to include the province of Maine, or at the very least Penobscot." "It is understood," so his instructions concluded,[1] "that if nothing of this can be obtained after the fairest and most strenuous trials, it may be left to the commissioners to settle, and the American propositions be accepted, leaving out the right of drying fish on the island of Newfoundland and confining them to what they have used, — a drift fishery, — and expunging all the last article except what regards the Mississippi." Equal stress was laid upon the debts as requiring the most serious attention, — "that honest debts may be honorably paid in honest money, no Congress money."

Shelburne, in announcing to Oswald the departure of Strachey, expressed the hope that he was well founded in his estimate of the American commissioners, and cautioned him against going before the commissioners, in every point of favor and confidence as opposite to their interests at the present moment.[2] He further argued that the fisheries of the two countries should be kept distinct, to avoid future disputes ; and that it was their political interest to "retain every means possible to gratify America at a future — I hope not very distant — day, when the negotiation will not be carried on at a foreign capital, not under the eye nor the control of inveterate enemies, nor under the reputed impulse of absolute necessity. If there is the disposition you mention in the commissioners towards Great Britain, and it is stated to them with address, I should think they might be brought to enter into it, as they must feel it perfectly consistent with the language hitherto held to them. It is at the same time certainly of importance to preserve their confidence and good will."[3]

At the same time Shelburne perfectly understood the gravity of his own situation at home, and of the necessity of being prepared for the attacks which he knew awaited him in Parliament. "It is our determination," he wrote to Fitzherbert,[4] "that it shall be either war or peace before we meet

of Münster to the partisans of the Spanish sovereign, at the peace of the Pyrenees to the revolted Catalans ; also by England at the peace of Utrecht ; and it was maintained by the opposition, in the debate on the Provisional Articles, that the omission of any effectual provision for the loyalists, unless marked by the just indignation of the country, would blast forever the honor of Great Britain.

[1] Fitzmaurice's *Shelburne*, iii. 282.

[2] *Ibid.* iii. 283.

[3] *Ibid.* iii. 285.

[4] *Ibid.* iii. 287.

the Parliament; for I need not tell you that we shall have then to meet so many opinions and passions, supported by party and different mercantile interests, that no negotiation can advance with credit to those employed." The negotiation with France seemed to have been smoothed by the explanations which had passed between Shelburne and Rayneval. This French visitor had been treated with tact and cordiality, and carried away an excellent impression of the English statesmen.[1] "M. de Rayneval," Fitzherbert wrote to Shelburne, October 13th, "talks to me in raptures of your lordship's reception of him, both in regard to your personal marks of kindness and in regard to the great candor, frankness, and reliability of your sentiments in your conversation upon business," and he also remarked that since Rayneval's return Vergennes had shown himself much more conciliatory.

Oswald accepted the refusal of his treaty with the remark that he was glad England could afford to risk the consequences of rejecting it; as for himself, he had given way to the insinuations thrown out by the commissioners that America was ready to resume the war, but he could not help thinking their conditions "very hard and limited."

On October 24th, Jay wrote: "Mr. Oswald told me that he had received a courier last night that our Articles were under consideration, and that Mr. Strachey, Mr. Townsend's secretary, was coming to confer with us about them. He further said he believed *this court* had found means to put a spoke in our wheel. He consulted me as to the possibility of keeping Mr. Strachey's coming a secret. I told him it was not possible, and that it would be best to declare the truth about it, viz.: that he was coming with books and papers relating to our boundaries."

The same day Jay dined with Dr. Franklin, and met there Rayneval, who asked how matters stood between them and Oswald, and was told that they could not agree about all their boundaries; on which Rayneval contested the American right to the backlands according to the ancient boundaries of Canada, and contested the old right to the fisheries, "adding some strictures on the ambitious, restless views of Mr. Adams, and intimating that we should be content with the coast fishery."

While Strachey was on his way to join battle for the English cause, the American commissioners were reinforced by the arrival of John Adams, fresh from his diplomatic triumph in Holland, the first successful negotiation since the alliance with France, and which had earned him the title of "the Washington of negotiation."[2] He arrived in Paris on Saturday, October 26,

[1] Fitzmaurice's *Shelburne*, iii. 286.

[2] Adams had roused the sympathy of the Dutch people by actively spreading information about America and interesting them in the struggle for liberty, and, in spite of the discouragement of Vergennes, he had secured, April 19, 1782, his recognition as envoy of the United States. He had next applied himself to negotiating treaties of amity and of commerce (October 8, 1782) similar to the French treaties, little as it seemed to the satisfaction of Vergennes, who complained, June 23d, to Vauguyon at the Hague that Adams was too precipitate; he should content himself with a treaty of commerce, without angling for an alliance. The treaty achieved under such adverse influences gave to the United States new dignity and importance. It showed that the republic was dealt with by Holland as an independent power, on an equal footing and on

1782, bringing to the work of the commission his experience, ability, energy, and courage. "He had studied," says Trescot, "profoundly and philosophically the capacities of the country he represented, and had an enthusiastic conviction not only of its future power, but of the influence which it might exert in the present condition of political affairs." He came at a critical moment, when, although the one great point had been accomplished in regard to the commission, and the Americans were to treat not as insurgent colonies, but as a sovereign state, there was still a difference of opinion between Franklin and Jay touching the confidence to be placed in France, and the regard to be paid to the instruction of Congress to undertake nothing in the negotiations without the knowledge and concurrence of the ministers of France, and ultimately to govern themselves by their advice and opinion.[1]

Mr. Adams had been originally appointed the sole commissioner to negotiate a peace. His habits of independent thought and action had dissatisfied Vergennes, and Congress, at the suggestion of Luzerne, had added in succession Jay, Franklin, Laurens, and Jefferson, and had remodelled the original instructions in accordance with the suggestion of the French minister, until, as Marbois wrote, they made the king of France master of the terms of peace. Of the appointment of his colleagues Adams was advised, and wrote in his manly way to a friend, who thought it might be disagreeable: "It is more honorable and much more easy. . . . The measure is right. It is more respectable to the powers of Europe concerned, and more likely to give satisfaction in America."

To Jay he wrote (November 28, 1781) from Amsterdam of the enlargement of the commission as "a measure which has taken off my mind a vast load, which if I had even at any time expected I should be called to sustain alone would have been too heavy for my forces."[2]

While advised of the enlargement of the commission, it seems that Adams never even heard of the new Instructions adopted "In Congress, June 15, 1781," until they were alluded to in a letter which he received at the Hague a few days before he left for Paris; and in his diary, under the head "Sunday, October 27, 1782," at Paris, he wrote: "This instruction . . . has never yet been communicated to me. It seems to have been con-

business principles; and the liberal loan which it secured for the United States, besides affording immediate and greatly needed relief, showed the confidence felt in the stability of the republic and the value attached to its friendship and its commerce. The Dutch ministers were still partly swayed by the influence of Vergennes, and the ratification of the treaty was postponed till October 7th, after which Adams was at liberty to join his colleagues. [Cf. *Secret Journals*, iii. 289, 291; *John Adams's Works*, i. 347; iii. diary; vii. 404, 501, official letters; Bancroft, x. ch. 26; Lyman's *Diplomacy*, i. ch. 3; *Treaties and Conventions of the U. S.* (1871), p. 607; *Parl. Hist.*, xxi.; Lecky, iv. 171; Yorke's letters in *Sparks MSS.* — ED.]

[1] [For Adams's view of the French policy, see *Works*, i. 392, App. D; and for these instructions, see *Ibid.* viii. 11. Adams's correspondence in Paris with Livingston begins Oct. 31, 1782 (*Ibid.* vii. and viii.; also life in vol. i. ch. 6 and 7; and diary in iii. 300. Cf. *Dip. Corres.*, vi. and vii.). The relations between Adams and Franklin were not infrequently strained, and their respective characters were not the basis, certainly, of a steady friendship. (Cf. *John Adams's Works*, i. 319, and App. B.) — ED.]

[2] *Dipl. Corresp.*, vi. 201.

cealed designedly from me." [1] And now on the binding character of this instruction, on which Franklin and Jay were divided, Adams was to become the umpire, and between them, he wrote that same Sunday in his diary, "I shall have a delicate, a nice, a critical part to act."

On Monday, October 28th, Jay wrote: "Mr. Adams was with me three hours this morning. I mentioned to him the progress and present state of our negotiation with Britain, my conjectures of the views of France and Spain, and the part which it appeared to me advisable for us to act.[2] He concurred with me in sentiment on all these points." Mr. Adams referred to this interview in his diary on November 30, 1782, when the Provisional Articles had just been signed, and said: "As soon as I arrived in Paris I waited on Mr. Jay, and learned from him the rise and progress of the negotiations. Nothing that has happened since the beginning of the controversy, in 1761, has ever struck me more forcibly or affected me more intimately than that entire coincidence of principle and opinion between him and me." This coincidence of view was a relief to Jay, whose position towards Dr. Franklin, in differing so widely from his views, and in adopting in the mission of Vaughan an independent and separate action, had been rendered more delicate by the age of his venerable colleague, Franklin being now seventy-six, and Jay only thirty-seven. The concurrence of Adams and Jay would give them for the future the control of the commission, but it was still clear that the success of the negotiations would be greatly endangered should Dr. Franklin at any time insist that France was entitled to the confidence of the commission, and that the congressional instructions should be obeyed.

Jay and Adams were both aware, as their frank letter to the secretary shows, that secrecy was essential to their success; that great caution should be observed, to prevent their negotiations becoming known directly to the court of France, or to Congress and the French minister at Philadelphia; and that unless Franklin should acquiesce in their views it might be impossible to command the terms as to the boundaries or the fisheries for which they hoped. The way had been opened by the new commission and the more favorable disposition of the English court for this task, which was undertaken by Adams, and accomplished with singular discretion and success.

Three days after his first conversation with Jay, Adams passed an evening with Franklin, who was still an invalid at Passy. "I told him," writes Adams, "without reserve my opinion of the policy of this court, and of the principles, wisdom, and firmness with which Mr. Jay had conducted the negotiation in his sickness and my absence, and that I was determined to support Mr. Jay to the utmost of my power in the pursuit of the same system. The doctor heard me patiently, but said nothing. The first conference we had afterwards with Mr. Oswald, in considering one point and another, Dr. Franklin turned to Mr. Jay and said, 'I am of your opinion, and will go on with these gentlemen in the business without consulting this

[1] Adams's *Works*, iii. 300.

[2] *Life of Jay*, i. 152.

court.'" The significance of this announcement by Dr. Franklin in the presence of all the commissioners, American and English, confirmed as it was by his adherence to the course of which he then declared his adoption, and by the joint letters signed by him to Congress, seems to have been hardly appreciated by those writers who have insisted that Dr. Franklin had continued to believe in the devotion of France to the American claims, and that when he consented to join Jay and Adams in concealing their negotiations from the French court, he inwardly regarded himself and his colleagues as guilty of an act of national ingratitude and bad faith.

Apart from the argument in favor of this reserve towards France, based on the belief, held by the American commissioners and now confirmed by the Vergennes instruction, that that court was unfriendly to the American claims, such reserve on the part of the American commission seemed to be justified by the fact mentioned by Mr. Adams to Secretary Livingston (November 6, 1782), that "the negotiations at Versailles between the Count de Vergennes and Mr. Fitzherbert are kept secret, not only from us, but from the Dutch ministers, and we hear nothing about Spain."

Touching the part which Franklin took in the subsequent negotiations, so far as his health would permit, both Adams and Jay cordially concur.[1] In alluding to Franklin's announcement of his acquiescence in Jay's opinion, Mr. Charles Francis Adams has remarked that his objection to it had doubtless been increased by the peculiar relations he had previously sustained to the French court, and by a very proper desire to be released from the responsibility of what might from him be regarded as a discourteous act, while no such delicacy was called for on the part of the other commissioners.

Reinforced respectively by the arrival of Adams and Strachey, the commissioners renewed the negotiation, modified somewhat by the new instructions of the British cabinet to Strachey, but with the disposition on both sides for an early and friendly adjustment, inspired by the results of Vaughan's mission.

Franklin, Adams, and Jay had as their secretary W. T. Franklin, a grandson of the venerable commissioner; and with Oswald were now associated Strachey, Robert, a clerk in the Board of Trade, and Whitehead, the secretary of Oswald. "These gentlemen," Adams wrote, "are very profuse in their professions of national friendship, of earnest desires to obliterate the remembrance of all unkindness, and to restore peace, harmony, and

[1] Adams wrote: "He has accordingly met us in most of our conferences, and has gone on with us in entire harmony and unanimity throughout, and has been able and useful, both by his sagacity and his reputation, in the whole negotiation."

Jay, whose intimate friendship with Franklin continued unbroken through life, and was marked by his appointment by Franklin (Sept. 11, 1783) as one of the executors of his will, paid a similar tribute in his reply to Franklin's request for his testimony on this point. Among other things he said: "I have no reason whatsoever to believe that you was averse to our obtaining the full extent of boundary and fishery secured to us by the treaty. Your conduct respecting them throughout the negotiations indicated a strong and steady attachment to both these objects and in my opinion promoted the attainment of them."

friendship, and make them perpetual by removing any seed of future discord."

It would seem from a passage in a letter of Adams,[1] alluding to Rayneval's journey to London, and to a suspicion that he went to insinuate something relative to the fisheries and the boundaries and the probabilities of the result, that he was unaware of the revolution suddenly effected in the English policy by the disclosure of the fact that the American commission understood and would resist the opposition of France and Spain to the American claims, and by the considerations in regard to the true policy of Great Britain which Vaughan had presented to Shelburne.

But while uninformed of the facts excepting as regards the new commission to Oswald, Adams (October 31) wrote: "It is now apparent, at least to Mr. Jay and myself, that in order to obtain the western lands, the navigation of the Mississippi, and the fisheries, or any of them, we must act with firmness and independence, as well as prudence and delicacy. With these there is little doubt we may obtain them all."

A cordiality and regard marked the intercourse of the American commissioners with Oswald. They met at each other's apartments, and frequently dined together, and occasionally with Vergennes. The questions on which the commissioners were divided, and on which their debates were long and earnest, were the northeastern boundaries, the details of the fisheries, and the loyalists. The question of paying debts incurred before the war, upon which the English strongly insisted, and to which Dr. Franklin had responded, as in regard to compensation to the Tories, that neither the commissioners nor Congress had power, was solved by a remark from Adams to Oswald in the presence of Jay, and repeated in that of Franklin, that he had no idea of cheating anybody; that the question of paying debts and that of compensating Tories were two. This was regarded by the English with great satisfaction. "I saw," wrote Adams in his diary, "that it struck Mr. Strachey with peculiar pleasure; I saw it instantly smiling in every line of his face." Franklin and Jay, in a subsequent conversation, agreed to Adams's proposal on the subject for the payment of all just debts, which was welcomed also as silencing the clamor of British creditors, and preventing them from making common cause with the refugees. Strachey at once wrote home (October 29) hopefully that he thought something might be gained.

When the question of the northeastern boundary was raised, the English at first demanded the whole of Maine, and in default of this wanted at least to have the Penobscot and Kennebec within their limits. This point was long and obstinately disputed, until Adams, who had arrived, as he said, at a lucky moment for the boundary of Massachusetts, silenced all objection by producing the official statements of former governors of that commonwealth, besides other documents, to prove that Maine had always been treated as a part of Massachusetts. Between the St. Croix and the St.

[1] *Dipl. Corresp.*, vi. 438.

John for the boundary of Maine there was some confusion; eventually the St. Croix was chosen as a compromise between the St. John and the Penobscot.[1] It may be proper to add that by the joint commission appointed in 1796, under the fifth article of Jay's treaty of 1794, to determine the eastern boundary, and what river was truly intended under the name of the river St. Croix, it was decided that the river Scoodiac was meant. The northern boundary was settled by a compromise between the restricted limit which England had assigned to Canada in 1754, when it was in the possession of the French, and her extension of the province of Quebec in 1774 to the Ohio.[2] The new line ran through the centre of the lakes to the source of the Mississippi, an alternative offered being a line along the forty-fifth degree of latitude.[3]

The right of drying fish was conceded by the Americans, on condition that Nova Scotia should be substituted for Newfoundland. The discussions on the fishery were long and careful. Both sides wished to arrange the matter so as to avoid future dispute, but the English idea was to effect this by separating the Americans from the English fishery, whereas Jay and Adams argued that any restriction of a right of such importance to America would certainly lead to war.[4]

The American commissioners, while guarding their great interests in the boundaries and the fisheries, made some minor concessions in addition to that so welcomed by the British commissioners for the payment of antecedent debts.[5] They had agreed to accept the St. Croix instead of the St. John as the boundary, and that from its source the eastern boundary should be the line indicated in the proclamation of 1763. "We have gone," wrote Adams, "the utmost length to favor the peace. We have at last agreed to boundaries with the greatest moderation. We have offered them the choice of a line through the middle of the great lakes, or the line of forty-five degree of latitude, the Mississippi, with a free navigation of it at one end, and the river St. Croix at the other." [6] The line adopted was marked on copies of Mitchell's map, and it was the temporary loss of one of these maps that led to the difficulties terminated in 1842 by the Ashburton Treaty.

The remaining point was one on which neither side showed any sign of yielding: the compensation of the loyalists. All that Strachey's arguments could secure was a clause that Congress, which had no power to bind the States in this regard, should recommend to the States to correct, if necessary, their acts respecting the confiscation of land, so as to render them consistent with perfect justice and equity.

On the 4th of November, the Articles were drawn up for the approval of the British ministry. "Some material points are gained," Oswald wrote, "though as to refugees, far short of what was wanted." Strachey

[1] *Shelburne*, iii. 294.
[2] Lecky, iv. 274.
[3] *Dipl. Corresp.*, vi. 442.
[4] Adams's *Works*, iii. 338.
[5] *Shelburne*, iii. 294.
[6] November 6. *Dipl. Corr.*, vi. 442.

was satisfied that the debts prior to 1775 were safe.[1] The papers were forwarded with a marked map. The American commissioners had objected to any change in the wording of the articles which they had drawn up, and Oswald, surprised at Jay's careful adherence to the original draft, wrote: "I did not expect to find him so uncommonly stiff about the matter." Strachey wrote: "You will see by the treaty all that could be obtained." He said with truth that the recovery of the property of the refugees had been "most obstinately fought for"; and on November 4th, Strachey addressed a letter to the American commissioners, making a last appeal for "stipulation for the restitution, compensation, and amnesty before we proceed further in this negotiation." On November 5th, he announced to them his intended departure for London on the same day.[2]

Oswald wrote (November 6, 9) to Townsend, that Jay had said "he hoped we would not let this opportunity slip, but resolve speedily to wind up the long dispute, so that we might become again as one people," and that he had reminded them that they had hitherto acted in the negotiation under the instruction of 1779, when their affairs were not quite in as good a position as at present, and had gone to the full stretch of them and further; that if they now broke up, their new instructions would be of a very different character, and they would no doubt be directed to state the depredations and unnecessary destruction of property over all their country as charges against the British demands.

During Strachey's absence, Oswald made new efforts to get the commissioners to relax on the subject of the loyalists, but was constantly met with the objection that neither they nor Congress had power to coerce the

[1] Strachey had won an acknowledgment from both sides for his persistent energy. "He pushes and presses every point as far as it can possibly go. He is the most eager, earnest, pointed spirit," Adams wrote in his diary. "He has enforced our pretensions by every argument that reason, justice, or humanity could suggest," Oswald said to Townsend.

[2] At this time he repeated his former assurance, that "a refusal on this point would be the great obstacle to a conclusive ratification of that peace which is meant as a solid, perfect, permanent reconciliation and reunion between Great Britain and America. . . . It affects equally, in my opinion, the honor and humanity of your own country and of ours. How far you will be justified in risking every favorite object of America by contending against those principles is for you to determine. Independence and more than a reasonable possession of territory seem to be within your reach. Will you suffer them to be outweighed by the gratification of resentment against individuals? I venture to assert that such a conduct has no parallel in the history of civilized nations."

The reply of the commissioners, dated also November 5th, after stating the impracticability of restoring the estates of refugees, which had been confiscated by laws of particular States pertaining to their internal polity, with which Congress had no authority to interfere, thus calmly and courteously, but with a significance which was appreciated at London, responded to the plain words and blunt suggestions of the British negotiators: "As to your demand of compensation to those persons, we forbear enumerating our reasons for thinking them ill-founded. In the moment of conciliatory overtures, it would not be proper to call certain scenes into view over which a variety of circumstances should induce both parties at present to draw a veil. . . . We should be sorry if the absolute impossibility of our complying further with your proposition should induce Great Britain to continue the war for the sake of those who caused and prolonged it. But if that should be the case, we hope that the utmost latitude will not again be given to its rigors. Whatever may be the issue of this negotiation, be assured, sir, that we shall always acknowledge the liberal, manly, and candid manner in which you have conducted it."

separate States to compensate them, and that England's interest was rather to compensate them herself, if it was necessary, than spend six times the sum in carrying on the war for that object. Still he was cheered to find that there was no sign of a renewal of the old confidence between America and France. From Adams's conversation he gathered that in this the Americans gave themselves little concern about the French court. Adams foresaw that attempts would be made to involve America in the future wars of France and England, and thought it their interest and duty to be completely independent, and have nothing to do with either of them except in matters of commerce. Jay was equally clear in his convictions of the necessity for caution.

Vergennes had received no exact report of the commissioners' doings since the arrival of Oswald's commission, when he understood that the English representative was showing himself ready to give way (*assez coulant*).[1] He complained of the reserve of Franklin and Jay, in a letter to Luzerne, on October 14, and wished it to be brought to Livingston's notice, though as a reminder rather than a complaint. The relations of Luzerne and Livingston were, according to Luzerne, extremely cordial, and Livingston promised (December 30) gently to remind the commissioners of the neglect complained of, "without letting them know," Luzerne wrote to Vergennes, "that it was in consequence of my insinuations."[2] Meanwhile, Vergennes rather confirmed the difference between himself and the Americans by arguing with them and with the English commissioners in favor of England on the fishery, the boundaries, and the loyalists, and announcing in addition to this view that the demands of the American commissioners on the subject of the loyalists were unreasonable, and that France would not continue the war for American objects.[3] On October 24, Rayneval dined with Jay and Franklin at Passy, and on learning that the negotiation was at a standstill, owing to their boundary and fishery claims, endeavored to persuade them that these claims were ill-founded.[4] Another inquiry was made (November 19) by Vergennes in regard to the state of the negotiation. Adams[5] told him that they were divided on two points, the Tories and the Penobscot; and he produced documents to show that the Penobscot claim was invalid. "The Count said that Mr. Fitzherbert told him they wanted it for the masts." "I told him," said Adams, "that I fancied it was not masts, but Tories, that made the difficulty; some of them claimed lands in that territory, and others hoped for grants there. The Count said it was not astonishing that the British ministry should insist upon compensation to them, for that all the precedents were in favor of it. I begged his pardon in this, and said that in Ireland at least there had been a multitude of confiscations without restitution."

Although a similar reserve in regard to their respective negotiations

[1] Circourt, iii. 292.
[2] *Shelburne*, iii. 300.
[3] *Ibid.* iii. 300.
[4] *Dipl. Corresp.*, viii. 205.
[5] Adams's *Works*, iii. 304.

marked the intercourse of the French minister and the American representatives, they maintained cordial and friendly relations. Adams, after some delay, had, at the suggestion of Lafayette, called on the Count de Vergennes, who with the countess had treated him with marked civility. On November 23, Vergennes wrote to Luzerne. The negotiators, he said, were busy with the boundary question, — both sides wanting the Penobscot. There would be equal difficulties about the western boundaries and the fishery, to which the Americans had forfeited their rights; and England could not well be expected to abandon the loyalists, since it was a usage observed by all nations to stipulate in a treaty for amnesty and restitution of property. "If the negotiation were more advanced," he continued, in words that showed how successfully the commissioners had maintained the secrecy of their councils, "I should use the influence which Congress thought fit to give the king, for the purpose of making the American plenipotentiaries more conciliatory; but as the conclusion of the peace does not depend solely upon their readiness to yield, it would be premature to press them, because the distrust which they would conceive of our advice could only make them more obstinate." Accordingly, he had taken no further part than that of recommending moderation. "If the American commissioners send exact reports to Congress, they cannot complain that we are trying to obtrude our influence upon their negotiation. I receive what it pleases them to tell me, and they know that in an emergency I will do them all the services in my power, but I do not try to know more than what they are disposed to inform me of. I shall be always ready to come to their help, because I foresee that they will have more than one difficulty to overcome, and even very great difficulties if they persist in their original claims. In spite of the flattery which the English ministers lavish on the Americans, I do not expect them to yield in the matter of boundaries or fisheries."

Vergennes was evidently satisfied that the English and Americans were hopelessly at variance, and that he was certain in the end to be called upon to intervene. He little suspected that in a week from that date (November 23) preliminary articles, to take effect at a general peace, framed without the assistance of France, and settling in a manner satisfactory to the Americans, but unsatisfactory to Spain and France, the fisheries and the boundaries, the Mississippi, the lakes, and the loyalists, would have been completed, signed, and sealed.

Strachey, delayed by contrary winds, did not reach London until the 10th.[1] He found the ministry little inclined to be conciliatory. The king was agitated by the fear of sacrificing the country's interests by hurrying on the treaty, and by the dread of posterity blaming him for "the downfall of this once respectable empire."[2] Shelburne's colleagues, Richmond and Keppel, proposed Oswald's recall, declaring that he was only an additional American negotiator. Shelburne himself, with Townshend and Pitt, were

[1] Adams's *Works*, iii. 314.

[2] *Shelburne*, iii. 297.

true to the cause of the loyalists. British opinion demanded that they should not be abandoned. On the other hand, says Shelburne's biographer, was the risk that persistence might throw the Americans back into the arms of the French. The bolder course recommended itself to the mind of Shelburne; and the cabinet presently (November 14) decided upon the preliminaries for a treaty, making the third set of articles which Strachey was to take back to Paris, — "Such a treaty as we can sign," Townshend wrote to Oswald, adding that it was the unanimous intention of the cabinet to adhere to the form now proposed. Limitations of distance from shore, taken from former treaties with France, were placed on the extent of the American fishery rights, and a stipulation was once more demanded for an indemnity for the estates of the refugees and loyalists, and for the proprietary rights of the Penns and Baltimore, as well as for debts contracted subsequently as well as prior to 1775.[1]

But the instructions showed some signs of weakening. Private exceptions were understood to be admissible. Strachey was to receive secret instructions, "stating the different classes of loyalists, which of them are to be finally insisted upon, and which only contended for." Once more Shelburne addressed a letter on their behalf to Oswald.[2] "This country," he said, "is not reduced to terms of humiliation, and certainly will not suffer them from America. If ministers, through timidity or indolence, could be induced to give way, I am persuaded the nation would rise to do itself justice and recover its wounded honor. If the commissioners reflect a moment with that coolness which ought to accompany their employment, I cannot conceive they will think it the interest of America to leave any root of animosity behind, much less to lodge it with posterity in the heart of the treaty. If the American commissioners think that they will gain by the whole coming before Parliament, I do not imagine the refugees will have any objection."

For the final effort to secure a better bargain from the commissioners, Fitzherbert was to join the other negotiators, in order to let the Americans see the possibility of an appeal to France, and he was "to avail himself of France so far as he may judge prudent from circumstances." Oswald, who had originally the sole charge of the negotiation, was now referred for all particulars to Strachey. He was to sign whenever Fitzherbert, Strachey, and himself thought it expedient.

Strachey had been followed to England by Vaughan, who, regretting the effects of the interposition of Strachey at Paris, undertook for a second time to represent the American views to the ministry, and felt confident that when they heard the truth about the loyalists, whose true history, he said, was little known in England, they would hold out no longer.[3] But before he reached London the ministry had decided to persevere on the main points, but not to break off the negotiation should the Americans

[1] *Shelburne*, iii. 298.
[2] *Ibid.* 299.
[3] Adams's *Works*, iii. 312; *Dipl. Corresp.*, vi. 463.

remain firm. While the commissioners were waiting Strachey's return, their uncertainty was increased by rumors that the meeting of Parliament on the 26th would lead to a change of ministry.[1] It seemed doubtful whether Shelburne could hold his ground without the support of either North or Fox; and if North came in, the prospects of peace looked unpromising. "Shelburne is not so orthodox as he should be," said Adams, "but North is a much greater heretic in American politics;" and he thought it quite possible that some members of the old ministry might join Shelburne, and persuade him to fall in with "the wing-clipping system" with regard to America.[2]

To give a better chance of a settlement, the session of Parliament was prolonged to the 5th of December. Strachey received his new instructions on November 21; three days afterwards he arrived at Paris,[3] and on Monday, November 25, Franklin, Jay, and Adams met at Mr. Oswald's lodgings. The change in the fishery article was first discussed. The fishery question was the only one where there was an appearance of conflict with France, and Adams remarked that the new ideas seemed to come piping hot from Versailles. He explained at great length the natural rights of the Americans to the fishery, the advantage which their retaining it would bring to English commerce, and the ill-feeling and contention that would be caused by excluding them. Jay desired to know if Oswald had now power to conclude and sign with them. Strachey said he had absolutely. Jay asked whether the propositions now submitted were ultimatum, and Strachey seemed loath to answer, but at last said no, which the commissioners agreed were good signs of sincerity.

On the following day, Fitzherbert, who now appeared in the negotiation for the first time, and who struck Adams as discreet and judicious, reported the state of his discussion with France on the fishery question: France was in favor of settling the boundaries within which each nation should fish, by way of avoiding disputes.[4] Adams then proved to him, by documents which he had received from Izard, that the French had no exclusive right to the fishery between Cape Bona Vista and Point Riche. He argued that the fishery was the only resource of New England, and that "if the germ of a war was left anywhere, there was the greatest danger of its being left in the article respecting the fishery." The rest of the day was spent in discussing the loyalists, a subject on which Franklin gave emphatic opinions. The commissioners were unanimous in rejecting the English proposal.

After four days of animated debate, a final arrangement was made on the 29th. Strachey's last effort to change the fishery clause was his proposal to substitute the word "liberty" for "right." Adams answered this suggestion with spirit, and said that the right was theirs by nature, by possession, and by conquest. Fitzherbert expressed himself convinced, but

[1] Adams's *Works*, iii. 318.
[2] *Ibid.* iii. 321; *Dipl. Corresp.*, vi. 463.
[3] Adams's *Works*, iii. 328.
[4] *Ibid.* iii. 330.

objected that they were merely "pens in the hands of the government," and that it would be necessary to send a courier home before deciding. The commissioners, who had now been joined by Laurens, suggested that if another messenger were sent to London, he should carry a memorial to the government for compensation for the damage done by British troops in plundering Boston, Philadelphia, and other towns. On hearing the statements on this point of Adams, Franklin, Jay, and Laurens, the English negotiators retired for consultation, and on their return they agreed to accept the terms proposed by the Americans in their ultimatum respecting the fishery and loyalists. By the terms of this ultimatum there were to be no further confiscations of property, or prosecution of loyalists; and Congress was to recommend to the legislatures of the different States that confiscated estates of British subjects, and Americans who had not taken up arms, should be restored. The new form of the articles was regarded by the English commissioners as an improvement over the modification previously proposed.

Glad as the English commissioners were to be relieved from their wearisome struggle, they could not help being a little distrustful of the reception which their articles would meet with at home. "Are we to be hanged or applauded," Strachey wrote to Nepeau on the night of the 29th, "for thus rescuing you from the American war? If this is not as good a peace as was expected, I am confident it is the best that could have been made." Fitzherbert wrote (November 29) that he had reluctantly assented to the fishery clause, seeing it to be inevitable; and Oswald was certain that "there could have been no treaty at all if we had not adopted the article as it now stands." "A few hours ago," he said, "we thought it impossible that any treaty could be made. We have at last, however, brought matters so near a conclusion that we have agreed upon articles, and are to meet tomorrow for the purpose of signing."

The next day (November 30, 1782,) the commissioners met first at Mr. Jay's, and then at Mr. Oswald's, to examine and compare their copies of the treaty. At Laurens's suggestion a stipulation was added prohibiting the British from carrying off with them "negroes or other American property." "Then the treaties," wrote Adams,[1] "were signed, sealed, and delivered, and we all went out to Passy to dine with Dr. Franklin. Thus far has proceeded this great affair. The unravelling of the plot has been to me the most affecting and astonishing part of the whole piece."[2]

The Provisional Articles of Peace, so signed, were to be inserted in and

[1] Adams's *Works*, iii. 336.

[2] The articles were ten in number. The *first*, an acknowledgment by his Britannic Majesty of the thirteen colonies as free, sovereign, and independent States, and a relinquishment of all claims to the government property and territorial rights.

The *second*, an agreement upon the boundaries extending to the Mississippi, and including the northwest territory north of the Ohio.

The *third* secured to the United States the right to the Newfoundland fishery and elsewhere, and to dry their fish on Nova Scotia, Magdalen Islands, and Labrador.

The *fourth* provided for the payment of creditors on either side.

to constitute the Treaty of Peace proposed to be concluded between the Crown of Great Britain and the United States, but it was declared that such a treaty should not be concluded until terms of peace should be agreed upon between Great Britain and France, and his Britannic Majesty shall be ready to conclude such treaty accordingly.[1]

The American commissioners had good reason for mutual congratulations. It would be difficult to find a parallel in modern diplomacy to the complications and intricacies by which, at the outset, the American commissioners were surrounded; and their situation presented a curious contrast to that which had been presented during the war now drawing to a close, and in which the parties were the same, while their situation and relations were different. In the war the young republic was aided by France and Spain in her struggle for independence against Great Britain, and now, on the field of diplomacy, in her contest for national independence not only of Great Britain, but of the world, and for the boundaries and resources which were essential to that independence and to her future greatness, the American commissioners in Paris, fettered by their instructions, and without the friendly aid of a single government in Europe, found themselves confronted by the hostile policy of the three great powers, wielded by the most experienced and accomplished diplomatists of London, Paris, and Madrid.

Even when there was no thought of any foreign hostile intervention against the American claims, the task of negotiating a peace with Great Britain had been regarded by Congress as so fraught with difficulty that the United States, if unaided, could hope for no success, and that it could expect no concessions except through the intervention of France; and although the victory at Yorktown seemed to be recognized as ending for England all reasonable expectation of conquering America, the situation was not such as to justify sanguine hopes on the part of the Americans of obtaining satisfactory terms either as regards boundaries or the fisheries.

The *fifth*, that Congress should recommend to the State legislatures to restore the estates, rights, and properties of real British subjects, they refunding the bona fide prices paid since the confiscation, and a revision of all laws regarding the premises.

The *sixth*, that no future confiscations or prosecutions should be made — persons confined on charges by reason of the war to be set at liberty.

The *seventh*, that there should be a firm and perpetual peace between the countries, and providing for the withdrawal of the British troops, etc.

The *eighth*, that the Mississippi River should be forever open to the citizens of both countries.

The *ninth*, that any place or territory of either country conquered by the arms of the other before the arrival of the articles in America, should be given up.

The *tenth*, that the ratification of the treaty should be exchanged within six months.

A "separate article" defined the boundary line between the United States and West Florida, should Great Britain possess the latter province at the end of the war.

[1] [Benjamin West began and never finished a picture commemorative of the treaty, which shows the figures of Franklin, Adams, Laurens, Jay, and Temple Franklin. It was engraved, and from that reproduction a woodcut is given in Mrs. Lamb's *New York City*, ii. 267. There is a mezzotint likeness of Hartley, engraved by Walker, after a painting by Romney, from a copy of which, given by Hartley to Franklin and preserved by the latter's descendants, a cut is given by Mrs. Lamb (vol. ii. 269). — Ed.]

The loss of the American colonies after so long a struggle was not simply a severe blow at the power and spirit of Great Britain, but an exaggerated idea prevailed of the disastrous consequences of that blow, and perhaps not unnaturally indisposed the ministry to anything like an amiable generosity in conferring favors and concessions on the successful colonies that would add to their power as commercial rivals, or tend to establish their future greatness. Shelburne himself had said, so recently as July 10, 1782, when constituted First Lord of the Treasury, that "whenever the British Parliament should recognize the sovereignty of the thirteen colonies, the sun of England's glory was forever set." A similar opinion had been expressed by Lord Chatham, Lord George Germain, and Dunning. The opposition was watching every step, and the temper of Parliament and of the people was as far as possible from a disposition to treat with tenderness the revolted colonies.

But the delicacy and embarrassments of the task of negotiation, as regards Great Britain, were complicated and increased by the fact, which Jay and Adams soon saw and felt, but which some historians seem to have had difficulty in comprehending even with the light of a century, that the destiny of the United States had, by the chances of the war, become entangled in the meshes and mazes of European diplomacy. A foreign influence hostile to the claims of America, hostile to her immediate recognition as an independent power, hostile to the boundaries, the Mississippi, and the fisheries, pervaded the air, blended with courtly assurances of the royal devotion to American interests, — assurances which Congress had not hesitated to accept, backed as they had been by a friendly alliance and generous and efficient aid in money, ships, and men. Now that the secret correspondence of that day lies open to the world, the difference in the tone of Vergennes to his agents and that which he assumed to Congress, exhibiting the dissimulation which then passed as statesmanship, recalls the maxim of the Roman emperors in Rome's decline, "He who knows not how to dissimulate knows not how to govern."

In this dilemma watchfulness and caution were clearly the first duty of the Americans until they should learn where they stood, and how their enemies were prepared to strike; and the wisdom of the refusal of Jay to proceed under the first commission is clear from the historic facts: first, the fact, which he could not then know, that France, after her agreement with America by the treaty of alliance to carry on the war until American independence should be secured, had afterwards agreed with Spain to continue the war for Spanish ambition until Gibraltar should be taken. So that, while it was the right of America to stop the war so soon as her independence was acknowledged, it had become the interest of France, by her new agreement with Spain, to postpone the recognition of American independence, so as to retain America in the war, which was to be carried on for the interest of Spain, in which America had no concern.

But apart from that fact, of which Franklin and Jay were kept by France

in ignorance, the American claim to treat as an equal sovereign was rejected by Vergennes, on the contention that America had lost whatever rights of territory or of the fisheries she had enjoyed as colonies when she voluntarily withdrew from her allegiance. The recognition of her independence in advance of the treaty was essential to make the treaty one, not of condonation and concession to revolted colonies, but one of separation, and for the division of sovereignty between equal and independent powers.[1]

The steady refusal of Jay to proceed on any but an equal footing, — a refusal in perfect accord with his resolution to make a good peace or none at all, — by staying the progress of the general negotiations which were to proceed together, made the American commissioners in no slight degree the masters of the situation, and induced Great Britain to offer, if they would only proceed, to relinquish both the debts and reparation to the Tories.

A most important step was accomplished by the Americans in securing without apparent effort and to a remarkable degree the confidence and regard of Oswald, whose letters show the increasing influence of their opinions, and the extent to which he was affected by the frankness of Jay's criticism of English blunders and by the breadth and soundness of his views in regard to the true English policy; and this confidence of Oswald gradually extended itself to the ministry at London, and inspired the remarkable degree of confidence on the part of Shelburne which at the critical moment decided the policy of England and the destiny of America. The illness of Franklin had thrown the responsibility upon Jay; and while he was calmly waiting, observing, and conceding nothing of the national dignity, there presently occurred in succession the three incidents: first, the intercepted letter of Marbois, which disclosed the French scheme to deprive America of the fisheries; second, the memoir of Rayneval, professing to give his personal views, but which Jay instantly recognized as the energetic views of his chief against the boundaries of the Mississippi; and lastly, one that seemed to illuminate the entire situation and explain the tactics against which they were to guard, namely, the discovery that Rayneval, with special precautions for secrecy, had gone to England. Jay decided without hesitation that Rayneval was intended to bring the influence of France and Spain to bear against the American claims. Jay, whose experience in Spain had sharpened his intelligence of Spanish politics, was

[1] The views of Congress on this point had been clearly stated in their instructions to Jay when in Spain, in these words: "While they remained a part of the British Empire, the sovereignty of the King of England did not extend to them in virtue of his being acknowledged and obeyed as king by the people of England, or of any other part of the empire, but in virtue of his being acknowledged and obeyed as king of the people of America themselves; and that this principle was the basis of their opposition to, and finally of their abolition of, his authority over them. From these principles it results that all the territory lying within the limits of the United States, as fixed by the sovereign himself, was held by him for their particular benefit, and must, equally with his other rights and claims in quality of their sovereign, be considered as having devolved on them in consequence of their resumption of the sovereignty themselves."

able to form a clear idea of the situation, which accordingly enabled him to decide upon the first aggressive step in the negotiation.

The court of Spain had viewed with extreme displeasure the alliance of France with the United States in 1778; for, while willing to see a blow struck at the pride and power of Great Britain, it was not ready to view with satisfaction, or even with indifference, the rise of a power based upon a rebellion of colonists against the divine authority of a king, and the formation of a republic devoted to civil freedom, and marked by what Burke called the dissidence of dissent and the protestantism of the Protestant religion. Spain at this time controlled nearly half of South America, with valuable colonies in North America, a well-appointed army and navy, an extensive commerce, and considerable wealth; while her importance in the European system was increased by the family compact which bound together the several branches of the house of Bourbon, and especially of France and Spain, with the maxim, *Qui attaque une couronne attaque l'autre.*

The alliance of France with America without the approval of Spain was regarded by Spain as a breach of the Family Compact; and the subsequent urging by Vergennes that she should engage in the war was at last successful on the condition that France should agree that, if she could drive the British from Newfoundland, its fisheries were to be shared only with Spain, and that Spain was to be left free to exact a renunciation of every part of the basin of the St. Lawrence and the lakes, of the navigation of the Mississippi, and of all the land between that river and the Alleghanies. By this bargain the price to be paid to Spain for entering into the war was the surrender to her of what constituted the fairest fruits of the war for which America had been contending.[1] Of the diligence, the finesse, and the ingenious methods with which the accomplished chief of the French foreign office pushed the policy, agreed upon with Spain, at Madrid, at Paris, at Philadelphia, and at London, the French and English archives add varied and abundant evidence to that already furnished by the *Secret Journal* of the old Congress, which show the influence exerted over that body in their appointments and instructions to enable Vergennes to control at pleasure the peace negotiations. But however perfect and complete the arrangements of France and Spain for managing the negotiation on the part of America, and carrying out the scheme, so elaborately explained in the secret memoirs, for dwarfing the boundaries and resources of the republic, and so subjecting it to the control of the European courts as to make it feel the necessity of allies, protectors, and sureties, the one government which had power to determine the boundaries and decide the question of the fisheries was Great Britain; and her concurrence in the scheme was essential to its success. The testimony of Lord St. Helens (Mr. Fitzherbert) shows how actively the influence of Vergennes was brought to bear on that able diplo-

[1] See the map from the *Life of Shelburne*, iii. 170, which is here reproduced. This map is also reproduced in Jay's *Address*, p. 120, and in George Shea's *Hamilton*, p. 134.

MAP OF

NORTH AMERICA,

showing the Boundaries of

THE UNITED STATES, CANADA, AND

THE SPANISH POSSESSIONS,

according to the proposals of the Court of France

in 1782.

English ..... *Red.*
United States ..... *Green.*
Spanish ..... *Yellow.*
Uncolored ..... *Indian Territory under Spanish or American protection, according as it lies West or East of the Yellow intersecting line.*

Scale of English Miles
100 50 0 100 200 300

mat at Paris against the claims of the Americans to the recognition of their independence in advance of the treaty, and to the fisheries, with stress upon "the expediency of a concert of measures between France and England for the purpose of excluding the American States from these fisheries, lest they should become a nursery for seamen."

But no concert of action on this point or on the boundaries had been established; nor does it appear that the scheme of the boundaries by which Great Britain was to retain the Ohio territory had been at all discussed until M. de Rayneval was dispatched to England, and broached the subject in the conversation with Shelburne and Grantham, being assisted in doing so, according to his own report to Vergennes, by the expression of a hope by Shelburne that the king of France would not sustain the Americans in their demands; and then he disclosed the views of France, playing into the hands of the English ministry, and calling their attention to the fact that the limits which he thought should be assigned to the United States relating to the Ohio were those to be found in the negotiations of 1754, which was a distinct intimation that France wished England to retain the great territories north of that river.

When the skilful secretary of Vergennes, after recommending the views of France and Spain, was promptly followed by Vaughan, the Americans were represented, not by a trained diplomat, but by one whom Shelburne knew and honored and trusted. When he had presented the views with which he was charged, and which his own judgment confirmed, Shelburne understood at once the real position, and accepted the force of the American argument, which appealed to the noblest principles and aims of British statesmanship. He recognized, too, the character and resolution of the men with whom he had to deal, and acknowledged the wisdom of establishing relations of confidence and friendship with the new republic. The instant effect of the change made in Shelburne's policy was shown by his asking Vaughan, "Is the new commission necessary?" and ordering it to be prepared, that Vaughan might carry back the bearer of it in his chaise.

Shelburne's assurance to Oswald, read in connection with this significant action, was in reversal of his previous and persistent policy, and his declaration that he had done all that was desired, and had put the greatest confidence ever placed in man in the American commissioners, indicates the thoroughness of the determination to prefer friendship and good will with America to an alliance against the republic with the two branches of the house of Bourbon, whose ancient jealousy of England had been conspicuously developed in the pending war.

In the attempt of the ministry, with the aid of Strachey and Fitzherbert, to obtain some modification in favor of the Tories, no disposition appears to sacrifice the interests of America to those of France and Spain, in the great features touched by Rayneval of the fisheries or the boundaries. Admitting the force of Lecky's suggestion that England would have had to pay the equivalent for any concessions made to her by France at the expense

of America, there is room for the recognition in the new policy of the ministry of a larger statesmanship.

Jay, who was not disposed to place too much confidence in any court, wrote, December 14th, to Livingston in regard to the disposition of the British ministry: "Although perhaps particular circumstances constrained them to yield us more than perhaps they wished, I still think they meant to make (what they thought would really be) a satisfactory peace with us." And later he said to Vaughan (March 26, 1783), "I have written to my countrymen that Lord Shelburne's system respecting them appeared to me to be liberal and conciliating;" and of Oswald he said, "He deserves well of his country, and posterity will not only approve, but commend his conduct."

The enlightened opinion of the England of to-day rightly attributes the resistance of the American colonists to their devotion to English rights and English principles; and if Shelburne had accepted the overtures of Rayneval, and joined France and Spain in their scheme for dwarfing the boundaries of the republic and subjecting it to the balance of power system of Europe, the England of to-day would have condemned such an alliance for such a purpose — an alliance with princes of the house of Bourbon to restrict and control the American republic, and to subject the valley of the Mississippi to the rule of Spain, civil and religious — as a policy unworthy of Great Britain, and of her honorable destiny as the mother of States.

However great the errors committed by her in the American struggle, it may always be remembered to her credit that in the peace negotiations Shelburne, declining all temptations to a contrary course, endowed the republic with the gigantic boundaries at the south, west, and north, which determined its coming power and influence and its opportunities for good, and enabled it a little later peacefully to secure the magnificent territories of Orleans and that of the Floridas, and gradually to extend the blessings of American freedom and civilization throughout so large a part of the western continent.

Since the disclosure of the Vergennes correspondence, both English and American historical writers[1] have been impressed with the tact and skill

[1] Among whom Lecky and Fiske are conspicuous. "On the part of the Americans," says Fiske, "the treaty of 1783 was one of the most brilliant triumphs in the whole history of modern diplomacy. Had the affair been managed by men of ordinary ability, the greatest results of the Revolutionary War would probably have been lost; the new republic would have been cooped up between the Atlantic and the Alleghanies; our westward expansions would have been impossible without further warfare; and the formation of our Federal Union would doubtless have been effectively hindered or prevented."

"It is impossible," continues Lecky, "not to be struck with the skill, hardihood, and good fortune that marked the American negotiation. Everything the United States could, with any shadow of plausibility, demand from England they obtained; and much of what they obtained was granted them in opposition of the two great powers by whose assistance they had triumphed. The conquests of France were much more than counterbalanced by the financial ruin which impelled her with giant steps to revolution. The acquisition of Minorca and Florida by Spain was dearly purchased by the establishment of an example which before long deprived her of her own colonies. Holland received an almost fatal blow by the losses she incurred during the

with which the American commissioners calmly extricated the republic from the perils that surrounded it, by disregarding the congressional instructions when it was found that they would endanger rather than save the country, and by adopting the wise, courageous, and dignified policy which maintained at once the dignity and the rights of the nation.

With the quick resolution of Shelburne and his associates to stand by the Americans and not by the Bourbons, the chief danger to the Americans was overcome; but wisdom, skill, and tact were still essential to complete the terms with England and to put them in a permanent shape. And knowing how much depended upon the last step, it is worthy of note that the American commissioners, to the close, acted with perfect coolness and deliberation, as though they were masters of the situation, and with a perfect observance of good faith, to France as regards the French-American alliance, and to England in exposing with entire frankness the want of power on the part of Congress to do what was asked on behalf of the Tories. At the same time the American commissioners knew the absolute importance of an early signing; and Adams's testimony on this point is full of interest, as given in a letter to Robert Morris, July 6, 1783: "I thank you, sir, most affectionately for your kind congratulations on the peace. When I consider the number of nations concerned, the complication of interests, — extending all over the globe, — the character of the actors, the difficulties which attended every step of the progress; how everything labored in England, France, Spain, and Holland; that the armament at Cadiz was on the point of sailing, which would have rendered another campaign inevitable; that another campaign would probably have involved a continental war, as the Emperor would in that case have joined Russia against the Porte; that the British ministry was then in so critical a situation that its duration for a week or a day depended on its making peace; that if that ministry had been changed it could have been succeeded only either by North and company or by the Coalition; that it was certain that neither North and company nor the Coalition would have made peace on any terms that either we or the other powers would have agreed to; and that all these difficulties were dissipated by one decided step of the British and American ministers, — I feel too strongly a gratitude to heaven for having been conducted safely through the storm, to be very solicitous whether we have the approbation of mortals or not."[1]

The idea sometimes suggested, even by the most thoughtful writers of our own time, that the European statesmen of that day had given but little thought to the future of America, if accepted as the rule, has certainly notable exceptions; and it seems reasonable, in view of the European wars,

war. England emerged from the struggle with a diminished empire and a vastly augmented debt, and her ablest statesmen believed and said that the days of her greatness were over. But America, though she had been reduced by the war to almost the lowest stage of impoverishment and impotence, gained at the peace almost everything that she desired, and started, with every promise of future greatness, upon the mighty career that was before her."

[1] John Adams's *Works*, vii. 82.

in the conduct and results of which American interests were so large a factor, that no little study should have been expended on the subject. The importance of the territories secured by the Provisional Articles was not overlooked by the diplomatists assembled at Paris.[1]

During the later stages of the American negotiation, proposals of peace had been passing between the belligerent European powers without much net result. Rayneval returned to England on a second mission, and proposed that France should receive Gibraltar in exchange for Dominica and Guadaloupe, and then should arrange with Spain for an equivalent.[2] The ministry, however, were still disinclined to part with Gibraltar, and expected Spain to lower her terms.[3] France was anxious that Spain should offer West Florida in exchange for it, and with this proposal Rayneval once more visited England at the beginning of December, before the signature of the American articles had been made known.[4] The cabinet were divided on the question of ceding the fortress, Richmond and Keppel stoutly opposing the idea of exchanging it on any terms. They had actually decided (December 3) to accept the proposal of exchanging it for Guadaloupe, conditionally upon certain other cessions, when news arrived of the signature of the Provisional Articles with America, which at once determined them to extend their demand for equivalents.[5]

Rayneval wrote (December 25) from England that Shelburne had told him confidentially that five members of the cabinet had wanted to take advantage of the signature with the Americans in order to break off all negotiations with France, and that they were still in favor of war. "This gave me an opportunity of speaking to Lord Shelburne about the precipitate

[1] The congratulations tendered to Jay by D'Aranda and Montmorin may have been partly due to personal regard and diplomatic courtesy, but other opinions of diplomatic observers simply from a European standpoint cannot be so explained. D'Aranda wrote to the king of Spain after the conclusion of the treaty: "This federal republic is born a pigmy. A day will come when it will be a giant; even a colossus, formidable to these countries. Liberty of conscience, the facility for establishing a new population on immense lands, as well as the advantage of the new government, will draw thither farmers and artisans from all the nations. In a few years we shall watch with grief the tyrannical existence of this same colossus." Signor Dolfin, the ambassador to France from Venice, writing Feb. 10, 1783, after describing at length the terms of the preliminary articles, dated Nov. 30, which he said would be forever a memorable epoch in the history of the nations, remarked: "If the union of the American provinces shall continue, they will become by force of time and of the arts the most formidable power in the world." Of the surprise felt in Paris by the terms secured by the Americans, we have the testimony of the two chief actors on the side of France and Spain, Vergennes and Rayneval. Vergennes, who with courtly and diplomatic address had expressed to Franklin his satisfaction at the articles, wrote to Rayneval at London, Dec. 4, 1782, that the English had rather bought a peace than made one; that their concessions as regards the boundaries, the fisheries, and the loyalists exceeded anything that he had believed possible. What could have been their motive for what one might interpret as a kind of surrender he wished Rayneval to discover, as he was in a better position to do so. Rayneval replied that the treaty seemed to him a dream.

[2] Fitzmaurice's *Shelburne*, iii. 291.

[3] "I anxiously hope," Grantham wrote to Fitzherbert, "that the state of the treaty with America may be such as, when known, it may quicken the desire of France to terminate the negotiation by employing her best offices with Spain for this purpose." Gibraltar was proving, as had been prophesied, a "rock in the negotiation."

[4] Fitzmaurice's *Shelburne*, iii. 303.

[5] *Ibid.* iii. 305; Circourt, iii. 53.

course adopted with the Americans, and I do not disguise from you that my language was somewhat reproachful. Lord Shelburne observed that it was a very delicate matter to reply ; he told me, however, that on their side there was a desire to conclude with the Americans before the opening of Parliament, in order to prevent parliamentary questions and intervention ; that further, until the report reached the cabinet, he had been in ignorance that things were so far advanced, and that such facilities had been granted the Americans ; and that inwardly (*intérieurement*) he disapproved of them." This hardly accords with Strachey's statement. "I tried," added Rayneval, "to take advantage of this opportunity to make some remarks upon the embarrassment which would be caused to Spain by the articles granting the Americans the navigation of the Mississippi ; but Lord Shelburne replied with vivacity that all which concerned Spain mattered little to him, and that she only merited attention because she was his Majesty's ally, but that he would take no step in her favor."

The disappointment to Vergennes from the interruption of the Franco-Spanish negotiation, and the change effected in the disposition of the British ministry to cede Gibraltar, seems to have been increased by disturbing rumors from England, whatever their origin, that hopes were expressed of separating America from the alliance with France ; and more than a fortnight after the signing (December 15), Vergennes being courteously advised by Franklin that the ship "Washington," for which they had received a passport from the king of England, would sail the next day with their despatches, responded with a reproach that Franklin had promised not to press for a passport. Then came the complaint occasionally quoted as though it had been made when first advised of the signing of the articles. "I am at a loss," he said, "to explain your conduct and that of your colleagues on this occasion. You have concluded your preliminary articles without any communication between us, although the instructions from Congress prescribe that nothing shall be done without the participation of the king. You are about to hold out a certain hope of peace to America, without even informing yourself of the state of the negotiation on our part. You are wise and discreet, sir ; you perfectly understand what is due to propriety ; you have all your life performed your duties. I pray you to consider how you propose to fulfil those which are due to the king."[1]

Without waiting for Franklin's reply, Vergennes next wrote to Luzerne in the same tone, enclosing the preliminary articles. It had been thought

[1] [What aroused Vergennes, some days after he had learned of the signing of the American treaty, was a sudden apprehension that possibly the English and Americans might combine against France, and his complaisant acquiescence in Franklin's apologies were as much due to that danger passing as to the apology of that diplomatist. (Cf. C. F. Adams's *John Adams*, i. 388.) There was certainly no reason for Vergennes to provoke recrimination, in view of his own secret understandings with Spain and of Necker's attempts at an understanding with North (Mahon, vii. App. p. xiii). The over-virtuous correspondence of Vergennes is given in Sparks's *Franklin*, ix. 449, 452, 532. It is not without significance that Franklin had himself, without the privity of the French government, made his early proposition to Shelburne about the cession of Canada. ED.]

dangerous, he remarked, to obtain an English passport for the vessel which was to convey these articles to America, because the American people might be led to suppose that peace had been concluded; hence he had been astonished to hear from Franklin on the 15th that the passport had been obtained and that the courier was about to set off. It was singular that the commissioners should not have thought it worth while to acquaint themselves with the state of the French negotiation. If the king had shown as little delicacy as the American commissioners, he might have signed articles with England long before them; but he was resolved that all his allies should be satisfied. Congress should be informed of the very irregular conduct of the commissioners, but not in the tone of complaint. "I blame no one, not even Dr. Franklin. He has yielded too easily to the bias of his colleagues, who do not pretend to recognize the rules of courtesy in regard to us. All their attentions have been taken up by the English whom they have met in Paris. If we may judge of the future from what has passed here under our eyes, we shall be poorly paid for all that we have done for the United States, and for securing to them a national existence."

Immediately after sealing this letter he received Franklin's reply, already alluded to, in which Franklin said: "Nothing has been agreed, in the preliminaries, contrary to the interests of France; and no peace is to take place between us and England till you have concluded yours. Your observation is, however, apparently just, — that in not consulting you before they were signed we have been guilty of neglecting a point of *bienséance*. But as this was not from want of respect for the king, whom we all love and honor, we hope it will be excused, and that the great work, which has hitherto been so happily conducted, which is so nearly brought to perfection, and is so glorious to his reign, will not be ruined by a single indiscretion of ours. And certainly the whole edifice sinks to the ground immediately if you refuse, on that account, to give us any further assistance. It is not possible for any one to be more sensible than I am of what I and every American owe to the king for the many and great benefits and favors he has bestowed upon us. . . . The English, I just now learn, flatter themselves they have already divided us. I hope this little misunderstanding will therefore be kept a secret, and that they will find themselves totally mistaken."

Vergennes immediately wrote, December 21, to Luzerne, countermanding the wishes he had expressed in his last letter, and allowing that Franklin's excuse was satisfactory. He gave a practical proof of his continued interest by promising a new loan of six million livres. All these despatches went by the "Washington." Franklin added a final letter to Morris, announcing the new loan, with a caution that peace was not certain as yet.

In view of the disclosure by Vergennes' correspondence, of his effort to defeat instead of supporting the American claims, no weight attaches to the complaints, which, after Franklin's apology, he withdrew; but it may be proper to remember that Vergennes' own suggestion of the plan of negotiations submitted to the English and American commissioners fully justi-

fied the latter in the course they had adopted.[1] In his conversations with Franklin and the English commissioners he had proposed a separate negotiation, and he had written to Luzerne, on April 9, 1782, that while he wished Congress not to make a separate peace, he had always been disposed to consent to the American plenipotentiaries in Europe treating directly with England, and without the intervention of France. "You will treat for yourselves," he said to Franklin, May 28,[2] "and every one of the powers at war with England will make its own treaty. All that is necessary for our common security is that the treaties go hand in hand, and are signed all on the same day." Finally, while the negotiation was actually in progress, he had disavowed all wish to interfere until he should be called in by the negotiators themselves to settle their difficulties.

Vergennes, from his earlier dealings with Adams, had disliked his clear-sighted patriotism and sturdy independence; and it was with the object of securing more pliant commissioners with which to deal in the peace negotiations that he had secured, through Luzerne, the enlargement of the commission. The result had been the entire overthrow of his carefully devised policy of confirming the power of Spain and weakening that of America; and he spoke of Jay and Adams in a tone of disappointment, as persons not easy to manage, — "*caractères peu maniables.*"

Fitzherbert, who was instructed to watch the effect which the signature of the articles had upon the French court, reported,[3] December 18, that "Messrs. Adams, Jay, and Laurens have little or no communication with Versailles, and not only distrust, but are strongly distrusted by that court; Dr. Franklin keeps up (though perhaps in a less degree than formerly) his connection with the French minister. . . . In regard to the three other commissioners, I know but little of Messrs. Adams and Laurens; but I must say, in justice to Mr. Jay, that he has always appeared to me to judge with much candor and consistency of the true interests and policy of his country as considered in relation to the three powers of Europe, being convinced that the assistance afforded to America by such of them as are leagued against England had originated not from any motive of good will towards the former country, but from enmity to us, and that therefore she was under no obligation to support them at present (her own peace being settled) in the prosecution of their quarrels; any otherwise, that is to say, than as she is strictly bound by the letter of her treaty with France."

It soon appeared that doubts existed in England whether the commissioners took the articles as a final settlement, and the commissioners made the conditional character of the articles public by issuing a formal declaration, on January 20, 1783, that the relations of the United States to England remained unchanged so long as peace between France and England was not concluded.

The preliminary articles reached Congress on March 12,[4] and the terms

[1] Fitzmaurice's *Shelburne*, iii. 193, etc.
[2] Sparks's *Franklin*, ix. 299.
[3] Fitzmaurice's *Shelburne*, iii. 321, 322.
[4] The accompanying letter is in *John Adams's Works*, viii. 18.

obtained gave general satisfaction, except that the stipulation obliging Congress to recommend a restitution of property appeared derogatory to the dignity of that body. The secrecy of the negotiations, however, was disapproved of by several members, who thought that the commissioners had joined England in taking advantage of the delicate situation of France; they particularly objected to the separate article, which seemed inconsistent with the candor which Congress had professed. Luzerne showed Vergennes' letters of remonstrance to a member, who asked whether France intended to complain to Congress. Marbois gave a dignified answer. Great powers, he said, never *complained*, but they felt and remembered. One of the delegates for North Carolina, wrote Luzerne, March 22d, had expressed his discontent with the commissioners' conduct, and had said that he was certain that Congress would declare their disapproval of it at a word from Luzerne. He had replied that it was advisable to keep the enemy from believing that there was a division between their allies. He had, however, communicated his sentiments to Livingston, who was to remind the commissioners of the letter of their instructions.

Secretary Livingston wrote to the commissioners, March 25, in a tone of qualified approval.[1] "The articles," he said, "have met with warmest approbation. . . . The steadiness manifested in not treating without an express acknowledgment of your independence previous to a treaty is approved, and it is not doubted but it accelerated that declaration. The boundaries are as extensive as we have a right to expect; and we have nothing to complain of with respect to the fisheries. My sentiments as to English debts you have in a former letter. No honest man could wish to withhold them. A little forbearance in British creditors, till people have recovered in part from the losses sustained by the war, will be necessary to render this article palatable, and indeed to secure more effectively the debt. The article relative to the loyalists is not quite so accurately expressed as I could wish it to have been. What, for instance, is intended by *real British subjects?* It is clear to me that it will operate nothing in their favor in any State in the Union; but as you made no secret of this to the British commissioners, they will have nothing to charge you with. . . . But, gentlemen, though the issue of your treaty has been successful, though I am satisfied that we are much indebted to your firmness and perseverance, to your accurate knowledge of our situation and of our wants, for this success, yet I feel no little pain at the distrust manifested in the management of it, particularly in signing the treaty without communicating it to the court of Versailles till after the signature, and in concealing the separate article from it even when signed. I have examined with the most minute attention all the reasons assigned in your several letters to justify these suspicions. I confess they do not appear to strike me so forcibly as they have done you; and it gives me pain that the character for candor and fidelity to its engagements, which should always characterize a great people, should have been impeached thereby. The con-

[1] *Dipl. Corresp.*, x. 129. Cf. Rives's *Madison*, i. 372.

cealment was, in my opinion, absolutely unnecessary; for had the court of France disapproved the terms you had made, after they had been agreed upon, they could not have acted so absurdly as to counteract you at that late day, and thereby put themselves in the power of an enemy who would certainly betray them, and perhaps justify you in making terms for yourselves. The secret article is no otherwise important than as it carried in it the seeds of enmity to the court of Spain, and shows a marked preference for an open enemy. It would, in my opinion, have been much better to have fixed on the same boundaries for West Florida, into whatever hands it fell, without showing any preference or rendering concealment necessary." He added that Congress had as yet been unable to come to a decision on the subject, so that his letter expressed merely his own opinion, and was written upon his own responsibility.

The commissioners jointly replied, July 18, that the separate article ought not to be considered as a favor to England, but as the result of a bargain. England was to withdraw her claims to the country above the river Yazoo, and in return her right to the country below it and to the navigation of the Mississippi was recognized by the Americans in the event of her conquering West Florida from Spain. "It was, in our opinion, both necessary and justifiable to keep this article secret. The negotiations between Spain, France, and Britain were then in full vigor, and embarrassed by a variety of clashing demands. The publication of this article would have irritated Spain, and retarded, if not prevented, her coming to an agreement with Britain. . . . This was an article in which France had not the smallest interest, nor is there anything in her treaty with us that restrains us from making what bargain we please with Britain about those or any other lands without rendering account of such transaction to her or any other power whatever. The same observation applies with still greater force to Spain.

"We perfectly concur with you in sentiment, sir, that 'honesty is the best policy.' But until it be shown that we have trespassed on the rights of any man or body of men, you must excuse our thinking that this remark as applied to our proceedings was unnecessary. Should any explanations, either with France or Spain, become necessary on this subject, we hope and expect to meet with no embarrassment. We shall neither amuse them nor perplex ourselves with flimsy excuses, but tell them plainly that it was not our duty to give them the information; we considered ourselves at liberty to withhold it. And we shall remind the French minister that he has more reason to be pleased than displeased at our silence. Since we have assumed a place in the political system of the world, let us move like a primary and not like a secondary planet.

"We are persuaded, sir, that your remarks on these subjects resulted from real opinion, and were made with candor and sincerity. The best men will view objects of this kind in different lights even when standing on the same ground; and it is not to be wondered at that we, who are on

the spot and have the whole transaction under our eyes, should see many parts of it in a stronger point of light, than persons at a distance, who can only view it through the dull medium of representation."[1]

Besides expressing his adverse views in the above letter to the commissioners, Livingston, March 18, made three formal proposals to Congress: that he be authorized to communicate the separate article to the French minister; that their ministers be instructed to agree that the proposed limit be allowed to any other power; and that it be declared that the preliminary articles are not to take effect until the conclusion of peace between France and England.

A debate took place, March 19, upon his letter enclosing these proposals,[2] but eventually the letter was referred to a committee, who, March 22, brought in resolutions corresponding to Hamilton's suggestions, viz.: that the ministers be thanked for their services, but be instructed to communicate the separate article to the court of France; and that Congress regretted that the preliminary articles had not been communicated to France before the signature.[3] News had arrived, meanwhile, of the signature of preliminaries for a general peace on January 20, which necessarily removed the possibility of an English conquest of West Florida, in view of which the separate article was inserted. This strengthened the case of the moderate party in Congress, and in the end the matter was allowed to drop without any official expression of the opinion of Congress.[4]

The great object upon which all American minds were bent was peace, and they were agreeably surprised at getting it upon such favorable terms.[5]

[1] Cf. *John Adams's Works*, i. 375, App. F; viii. 87; Sparks's *Franklin*, ix. 532.

[2] Mercer, of Virginia, was loud in denouncing the ministers. Their conduct, he said, expressing their distrust of France in their letter to the British minister, was a mixture of follies which had no example. He feared that France was already acquainted with the whole transaction, and was only waiting to see how Congress received the separate article in order to league with Britain for their destruction. He threatened to publish the separate article, and was called to order by the president. On the other hand, the general sense of Congress was for a middle course, between sanctioning the separate article and censuring or recalling the ministers. Clarke, of New Jersey, thought that the ministers might have reasons which were unknown to Congress. Rutledge, of South Carolina, said that the ministers had adhered to the spirit and letter of the treaty with France, and moved that Livingston's letter be referred to a committee of inquiry. Lee held that engagements between nations ought to be reciprocal, and that France had released them from their obligations to consult her by plotting against their interests. The ministers were also commended by Williamson of North Carolina, Higginson of Massachusetts, Wolcott of Connecticut, and others. Hamilton urged deliberation; he disapproved of the ministers' conduct because it gave an advantage to the enemy, but he wished them to receive a general commendation, and that the separate article would be communicated to France. Madison was equally opposed to abetting the article, unless a breach of their promise to confide in France could be justified by producing some proof of perfidy on their ally's part. (Cf. Rives's *Madison*, i. 352, 363; Hamilton's *Republic*, ii. 488; Morse's *Hamilton*, i. 136, etc.)

[3] In the debates which followed, Dyer of Connecticut, Holton of Massachusetts, Bland of Virginia, besides the speakers already mentioned, were opposed to taking any decisive action. On the other hand, Mercer renewed his invectives, and he was supported by Carroll of Maryland, and Wilson of Pennsylvania. Rutledge and Arthur Lee thought that instructions were conditional, and could be set aside for the public good.

[4] Rives's *Madison*, i. 371.

[5] Luzerne wrote to Vergennes, on March 19, that the northern boundary from Lake Superior to the sources of the Mississippi had surpassed all expectation. It gave the Americans four

In England, the articles met with a very different reception. Strachey, who had left for England immediately after the signature, wrote to Oswald, December 10, that he found Townsend and Shelburne perfectly satisfied with their conduct. But no sooner had Parliament met than a storm of displeasure broke upon the heads of the ministers. "Finding it indispensable," the king said in his speech, December 5, "to an entire and cordial reconciliation with the colonies, I did not hesitate to go the full length of the powers vested in me, and offered to declare them free and independent States, by an article to be inserted in the treaty of peace. Provisional articles are agreed upon, to take effect whenever terms of peace shall be finally settled with the court of France. In thus admitting their separation from the crown of these kingdoms, I have sacrificed every consideration of my own to the wishes and opinions of my people."

As yet the provisional articles were kept a secret, Shelburne holding that it would be dangerous to publish them. Attacks, however, were made upon the concession of independence in the king's speech. Stormont assailed it because he said it was irrevocable; Fox, because it was an article of treaty, and therefore conditional.[1] Unfortunately, the ministry did not agree in their defence. While Pitt, in the House of Commons, admitted that the recognition was final, Shelburne, in the House of Lords, returned to his old standpoint and declared that the recognition of independence was conditional upon the ratification of the treaty. This was still the view of George III. "It appears," he wrote to Shelburne, December 8, "that Mr. Pitt stated the article of independence as irrevocable, though the treaty should prove abortive. This undoubtedly was a mistake, for the independence is alone granted for peace. . . . Mr. Vaughan's letter shows further demands are to come from Franklin, which must the more make us stiff on this article."[2]

The common antagonism to Shelburne of the parties of Fox and North was rapidly becoming a bond of union, and disaffection was appearing in the ranks of the ministry itself. Keppel and Carlisle resigned in January on account of the terms of peace; Richmond and Grafton complained of Shelburne's monopoly of power, and in February the latter tendered his resignation.[3] Shelburne vainly tried to effect a coalition with the friends of Fox and North, but on February 14th these two statesmen made a compact, whereby they consented to unite their forces and establish a strong

forts that they had found it impossible to capture. Lands nearer the coast had already depreciated in value, owing to the new acquisitions. "There is a belief," he said, — and the remark shows the view then opening of the future of America, — "that the plenipotentiaries, in pushing their possessions as far as the Lake of the Woods, are preparing for their remote posterity a communication with the Pacific." Again he wrote (Sept. 26) that the vast extent of the boundaries had caused great surprise and satisfaction. Nor were the New England fishermen less grateful to the commissioners. "You have erected a monument to your memory in every New England heart," Adams wrote to Jay; and Hamilton said, "The New England people talk of making you an annual fish offering as an acknowledgment of your exertions for the participation of the fisheries" (Jay's *Address*, 208).

[1] Fitzmaurice's *Shelburne*, iii. 308.

[2] *Ibid.* iii. 310.

[3] Lecky, iv. 289.

government. They agreed to waive for the present the main question upon which they had hitherto disagreed, — the reduction of royal influence by economical reform. On the other hand, the king was not to be suffered to be his own minister.[1]

The preliminary articles were laid before Parliament, and on February 17th a debate took place which showed the strength of the new coalition. The address to the king was moved in the House of Commons by Thomas Pitt, who argued that it had been inevitable for them to end the war. "Wise men would think you could not too soon rise up from a losing game." It was seconded by Wilberforce. Lord John Cavendish moved an amendment, wishing the House to suspend their judgment until the Dutch treaty came. An addition to the amendment was moved by Lord North, who complained that the reciprocity mentioned in the preamble to the treaty was one-sided; they had given America a tract which comprehended twenty-four Indian nations, and where many forts had been erected and maintained at great expense by Great Britain. Why, he asked, had they not adhered to the boundary fixed in 1774? As regards the fishery, they had not been content with giving up what they possessed, but they shared what was left them; they had given America unlimited powers of fishing off their coasts, without securing a reciprocal right for themselves. There was a peculiar mockery in reserving for themselves the right to navigate the Mississippi. He lamented the fate of the loyalists in particular. "Never," he said, "was the honor and humanity of a nation so grossly abused as in the desertion of those men. . . . Nothing can excuse our not having insisted on a stipulation in their favor." He was followed by Powys, who said that at any rate the first Lord of the Treasury had proved himself a good Christian, for he had not only parted with his coat to America, but given her his cloak likewise.

Townsend defended the articles in a tone of moderation, admitting that the treaty had not been negotiated on narrow-minded principles. As to the Americans having forfeited the fishing rights they enjoyed as British subjects, he hoped that sort of distinction would never hereafter be made. The boundary proposed in 1774 would have been an eternal bone of contention. Building the forts referred to had been one of the follies of Lord North's administration. The article affecting the loyalists gave him as much concern as any one else; but had the commissioner refused to accede, the treaty must have been broken off. Burke ridiculed this defence. If what the country owed the loyalists could not be obtained, they should not have been mentioned in the treaty at all. The articles deserved to be obliterated out of the annals of the country. Other members questioned the crown's right to cede English dominions. Sheridan said that the treaty relinquished everything that was glorious and great in the country. Fox described it as the most disastrous and degrading peace that the country had ever made. It was everywhere concession, in spite of the fact that they had gained

[1] Lecky, iv. 295.

brilliant victories, and had everything to hope for. Pitt, however, recalled to the minds of the opposers of the address the language they had held while in office, — that peace must be made on any terms. The articles drew some violent rhetoric from Lee, who thought it a disgraceful, wicked, and treacherous peace, such as no man could vote to be honorable without delivering his character over to damnation forever. On a division being taken, there appeared two hundred and twenty-four for the amendment, and two hundred and eight against it, — a majority against the articles of sixteen.

In the House of Lords the lines of attack and defence were similar. Lords Pembroke and Carmaethen moved and seconded the address, and Lord Carlisle moved an amendment lamenting the necessity which bade them subscribe to the articles. He said all Canada was virtually lost to them, and questioned the right of the crown to dismember the empire. Lord Walsingham objected to the articles on the ground that the province of Canada was rendered insecure, the fur-trade was lost, several hundred million acres were ceded, and faith was broken with the Indians. Lord Hawke pointed out that the best furs were north of the lakes. Then followed some severe criticisms from Lord Townshend, especially upon the choice of Oswald. The Americans, he said, had evidently been too cunning for the English negotiators. Why could not some one from Canada have been thought of for the business which Oswald had been sent to negotiate? Oswald was, or appeared to be, ignorant how the country lay which he had been granting away. The Duke of Grafton implored them not to oppose the peace from factious motives. The Duke of Richmond disliked the terms, but would not vote either way. Keppel declared that the fleet had never been in so efficient a condition, and that they were fully prepared for either offensive or defensive war. Stormont attacked the articles in detail, saying that they were injurious to the interests and derogatory to the honor of Great Britain, and that Oswald had been overmatched by the Americans. Sackville stigmatized it as the most impolitic and ruinous treaty the country had ever made.

Shelburne's defence was long and careful. He began by saying that he had consulted experts upon all the questions which he had had to decide. As to the value of lands ceded, the imports from Canada amounted to only £50,000, and it was not worth while continuing the war at the cost of £800,000 annually for the sake of the imports. Besides, they had retained the best districts, and had only relinquished an oppressive monopoly which it was their interest to abolish. As to the Indians, the Americans knew best how to manage them. The fishery rights had been conceded because they knew that the Americans would exercise those rights, whether the British consented or not. They had not stipulated for a reciprocity because their own fishery gave them abundant employment. As to the loyalists, he had done his best for them, and the most likely means of aiding them now would be to declare their confidence in the good intentions of Congress. Oswald was appointed because he was inflexibly upright, and had local knowl-

edge of America. The navigation of the Mississippi was of great use to England, because it communicated with a country where there was demand for their manufactures. Finally, he reminded them of the desperate state of their affairs : . . . American independence established, a debt of one hundred and ninety-seven millions, their credit tottering, and their resources at an end.

Lord Loughborough called the treaty a capitulation. As to the fur-trade, they had a monopoly only in the same way that every country had a monopoly of its own produce. How, he asked, could the article respecting debts and private rights be justified? When they evacuated New York and their other possessions, they would have to deliver up the houses, the goods, and even the persons of their friends. If they had appealed to France and Spain, the generosity of those two great and respected states would have interposed in favor of the men they had abandoned. In ancient and modern history there could not be found so shameful a desertion.

The debate concluded with a speech from the Lord Chancellor, Thurlow, defending the articles, and ridiculing the doctrine that the prerogative of the crown did not warrant the alienation of territory. The House divided at 4.30 A. M., and there appeared seventy-two for the address and fifty-nine against it, — a majority of thirteen for the ministry.

A few days later, Lord John Cavendish brought forward resolutions which expressed positive censure of the terms of the treaty. In a speech, February 22, defending the treaty, Pitt made a direct attack upon the new coalition, and attributed the debate rather to the desire to force Shelburne from office than to any real conviction that the ministry deserved censure. "This is the object which has raised this storm of faction ; this the aim of the unnatural coalition to which I have alluded. If, however, the baneful alliance is not already formed, if this ill-omened marriage is not already solemnized, I know a just and lawful impediment, and, in the name of public safety, I here forbid the banns." Notwithstanding his eloquence, the opposition triumphed by seventeen votes, and on February 24th Shelburne resigned.[1]

The king's animosity to Fox was as pronounced as ever ; but after vainly offering the treasury to Pitt, Gower, and others, he was obliged to accept the coalition.[2] On April 2d, the country having remained without a government for over a month, the Duke of Portland, in virtue of his title and respectability, became the nominal head of the government, Fox and North became secretaries of state, and the cabinet also included Lord John Cavendish, Keppel, Stormont, and Carlisle.[3] The Duke of Manchester and Hartley were appointed to fill the places of Fitzherbert and Oswald respectively,[4] although Fitzherbert continued in Paris as additional commissioner.

Hartley received his instructions on April 18th.[5] His commission, without which the American commissioners refused to proceed, did not reach

[1] Fitzmaurice's *Shelburne*, iii. 360, 364, 367.
[2] Lecky, iv. 301.
[3] Fitzmaurice, iii. 224 ; Lecky, iv. 255.
[4] Fitzmaurice, iii. 384.
[5] *Diplom. Corresp.*, x. 215.

him until the middle of May.[1] He was invested with full power "for the perfecting and establishing the peace, friendship, and good understanding so happily commenced by the Provisional Articles, . . . and for opening, promoting, and rendering perpetual the mutual intercourse of trade and commerce between our kingdoms and the dominions of the United States."

Towards the first of these objects — the completion of the Provisional Articles by necessary additions — various proposals were made, which ultimately fell through.[2] Franklin drew up an article to protect all persons who followed peaceful occupations from molestation in case of a future war. Articles were also proposed by the Americans stipulating for the payment of prisoners' expenses, and other details ; and by Hartley, on behalf of loyalists and former owners of land.[3] None of these points were adopted.

The second object mentioned in Hartley's instructions — the negotiation of a convention for regulating trade between the two countries — occupied the attention of the commissioners throughout the months of May, June, and July. Shelburne had been in favor of settling the question upon liberal principles. He held that it was worth their while to sacrifice England's commercial monopoly when America's friendship was in the balance. Burke wished to repeal all prohibitory acts, and Pitt brought in a bill on March 3d proposing commercial intercourse "on the most enlarged principles of reciprocal benefit." But the new ministry was disinclined to give up the privileges secured to British ships by the Navigation Act ; and it was argued against Pitt's proposal that England would lose the carrying-trade if the Americans were permitted to bring West Indian commodities to Europe, since they would export European manufactures to America when they returned. Fox condemned the bill because, he said, great injury came from reducing commercial theories to practice. Lord Sheffield, a supporter of the government, said that the country was as tenacious of the principles of the Navigation Act as it was of Magna Charta. Hence Hartley's instructions, April 10, from Fox, directed him to insist on the admission of British goods into America, but to exclude American goods from British dominions.

The American commissioners asked for perfect reciprocity, and were determined not to be excluded from the West India trade. The question was interesting France. Vergennes was designing, Fitzherbert wrote, April 18, to attract American trade to France, and Franklin was encouraging this idea, while Adams and Jay were in favor of giving the preference to England.

On May 21st, Hartley made a formal proposal in conformity with his instructions, and schemes of agreement were also drawn up by Jay and Adams.[4] The ministry, however, withheld their approval of Hartley's action, and the negotiation made no progress. Doubts existed in England of the authority of Congress ; Fox even suggested, August 9, that a definitive treaty with the Americans was superfluous.

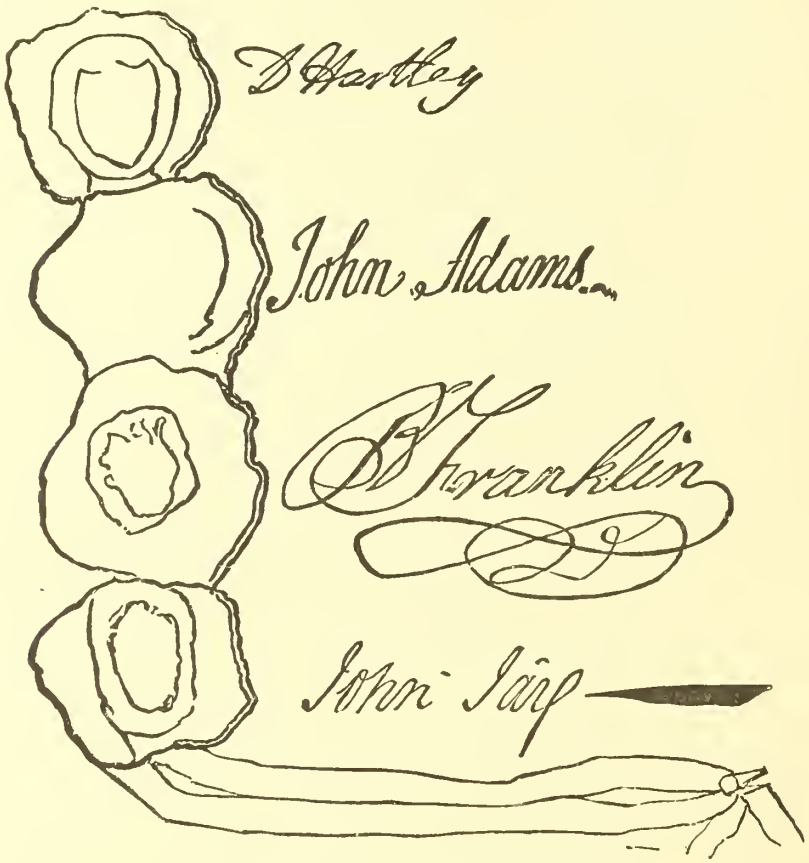
[1] *Diplom. Corresp.* x. 142. The commission is in the *Polit. Mag.*, v. 311.

[2] Adams's *Works*, iii. 349.

[3] *Dipl. Corresp.*, x. 179, 182.

[4] John Adams's *Works*, iii. 371.

The question of the West Indian carrying-trade was settled by a royal proclamation on July 2d, confining it to British ships. Sheffield published a pamphlet in which he said: "There should be no treaty with the American States, because they will not place England on a better footing than France and Holland, and equal rights will be enjoyed, of course, without a treaty." Finally, July 27, it seemed to the commissioners that they would "find it best to drop all commercial articles in our definitive treaty, and leave everything of that kind to a future special treaty." They attributed



SIGNATURES OF THE DEFINITIVE TREATY.*

the delays partly to divisions in the cabinet, partly to the ministry's desire to avoid a definite treaty. But France was determined not to sign without America's participation.

It had been suggested that all the treaties should be signed simultaneously at Versailles, in the presence of the ministers of Austria and Russia, who were to be complimented with a nominal patronage of the treaties in return for the efforts made by those imperial courts to mediate. England, how-

* [From the copy in the State Department at Washington as given in a paper by Theo. F. Dwight in the *Mag. Amer. Hist.*, x. 384. Cf. the fac-simile in Gay's *Pop. Hist. U. S.*, iv. 90 — Ed.]

ever, consistently with her former attitude, objected to acknowledge their right to interfere, and Hartley was instructed to sign at Paris.[1] The coalition ministry set their seal to the articles which they had condemned. Except for the omission of the separate article, the Provisional Articles were adopted as the definitive treaty between England and America, which was signed at Paris on September 3, 1783.

It is interesting to note that the extent of boundaries secured by the treaty seemed at once to suggest the design of pushing them to the Pacific,[2] and that in the republic which the Spanish statesman designated as "a pygmy" they foresaw the future giant. But the most inspiriting and instructive thought for the American people is that the diplomacy which laid the foundation of their national greatness was marked not only by clear intelligence and skill, which enabled its commissioners to defeat the hostile designs of the most accomplished diplomats of Europe, but by such calm resolution, judicious action, and unbroken faith as to justify the remark of Trescot, that "the republic entered the venerable circle of nations calmly as conscious of right, resolutely as conscious of strength, gravely as conscious of duty."

CRITICAL ESSAY ON THE SOURCES OF INFORMATION.

THROUGHOUT the negotiation the letters of Oswald are laboriously minute. These, as well as other miscellaneous correspondence bearing upon the negotiation from March, 1782, to the signing of the treaty, are in the B. F. Stevens collection of MSS. now on deposit at Washington, which comprises copies of documents in the English and French foreign offices,[3] and in the collection of Shelburne MSS. at Lansdowne

[1] *Dipl. Corresp.*, x. 209.

[2] The territory secured to the United States by this treaty has been estimated at 820,680 square miles, or more than twice the area suggested in the French proposals as indicated by the map published by Lord Edmond Fitzmaurice. The western boundaries defined by the treaty were extremely displeasing to Spain, and that power in 1800 re-ceded to France the territory of Orleans, which had been ceded to her by France under the treaty of 1763; and in 1803 it was sold by France to the United States for $15,000,000, its area being estimated at 899,579 square miles. In 1819 the United States acquired Florida, with 66,000 square miles. In 1845, by the admission of Texas, 237,504 square miles. In 1846, by the Oregon treaty, 303,000, and in 1848 and 1855, by the treaty of Guadalupe Hidalgo with the Messilla Valley, 550,445 square miles, and in 1867 Alaska was added by purchase from Russia for $7,200,000. This last addition extends the extreme western boundary of the United States about 30° of longitude further than the Sandwich Islands, and makes the distance westward from Eastport, Maine, 6,187 statute miles (article "Alaska," in Appleton's *Cyclopædia*, 1868).

[3] I have to thank Mr. Stevens and Mr. Dwight for the facilities kindly afforded for its examination, and to say that in the collation of the materials thus afforded and referred to in the notes, as well as in the preparation of the earlier part of this chapter, I was assisted by Mr. John C. Godley, of Corpus Christi College, Oxford. I had already had an opportunity, through the courtesy of Lord Salisbury and the late Lord Tendendon, of examining the papers relating to the treaty in the State Paper Office at London, including the valuable letters of Mr. Oswald, characteristic of that earnest and honorable negotiator, and which furnished the British ministry, by whom the negotiation was conducted, with notes of conferences and conversations with the American commissioners almost photographic in their minuteness. That correspondence is, I believe, generally contained in the Franklin papers at Washington; and the further collection on the Peace Negotiation, including papers from the French Archives, a few of which were printed

House. Grenville's despatches to Fox, and the correspondence of Strachey, Fitzherbert, Hartley, and the Duke of Manchester with the English ministry, supplement Oswald's account.[1] Some of these are printed in Sparks's *Franklin*, ix. 303 *seq.* This volume also contains a diary of the negotiation which Franklin kept from March 21 to July 1. The narrative from an American point of view is continued in Jay's letters (*Diplomatic Correspondence*, viii.) and in Adams's diary, which begins from the date of his arrival in Paris, Oct. 26.[2]

by M. de Circourt, supplies material so essential to the completeness of American history, and to the correction of errors that for half a century have prevailed to a regrettable extent in regard to the true story of the Peace Negotiations, that Congress, it is to be hoped, will promptly respond to the singularly unanimous demand from American scholars for its purchase and its publication.

It is a matter of profound regret that the judicious movement inaugurated by President Hayes and Secretary Evarts, and continued by President Garfield and Secretary Blaine, for gathering from the archives of Europe materials bearing on the American Revolution, was allowed to drop after it had been so cordially responded to by European governments. The times seem auspicious for a demand from the country that that movement shall be revived, and carried to completion in the most thorough and scientific manner, so as to secure while we may from foreign lands the interesting and often invaluable documents that await our acceptance, and to place copies of them in the great libraries of the republic, within easy reach of every student of American history.

[1] [Reference has already been made in the notes on earlier pages to the essential means for studying the relations of Rockingham, Shelburne, Fox, Burke, and the other leading political characters of Great Britain to the peace.

The character of the king is an essential element in considering the complete surrender of principle on the British part. The letters of the king to North were submitted to Sir James Mackintosh, and from them he made certain extracts, and these MS. copies were used by Mahon in his *England;* Brougham in his *Statesmen;* Earl Russell in his books on *Fox;* and by Bancroft in his *United States*. The original letters are in the Queen's cabinet at Windsor, and have since been published in full under the editing of W. Bodham Donne, as *The Correspondence of King George the Third with Lord North, 1768–1783* (London, 1867, in 2 vols.). In the introduction the editor has depicted the character of the king. Cf. Brougham's *Statesmen;* Wheatley's ed. of *Wraxall*, i. 279, etc. The stubbornness of the king as promoting the unconstitutional influence of the Crown is nowhere better set forth than in Erskine May's *Constitutional Hist. England*, vol. i. Cf. for a briefer survey, B. C. Skottowe's *Short Hist. of Parliament* (ch. 15), on the personal government of the monarch. Donne's book reopened the question of his constitutional attitude. Cf. *Blackwood Magazine*, June, 1867; *Quarterly Rev.*, 1867; C. C. Hazewell in *No. Am. Rev.*, Oct., 1867. The debates of Feb. 17 and 21, 1783, in Parliament, on the articles of peace, beside being found in the *Parliamentary Hist.*, xxiii. 373, 436, were also published separately as *A Full and faithful Report*, etc. (1783). Cf. Jay's address, Appendix i. Adolphus (iii. ch. 49) summarizes the arguments in Parliament for and against the treaty. The treaty can be found, among other places, in *Treaties and Conventions of the United States* (Washington, 1871), p. 309; H. W. Preston's *Documents illustrating Amer. Hist.* (N. Y., 1886, p. 232); George Chalmers's *Collection of Treaties between Great Britain and other powers, 1555–1786* (London, 1790); Jay's *Address*, Appendix; Jones's *N. Y. during the Rev.* (ii. 664), etc. The Paris edition of 1783 has the American eagle for a device. Compare, for comment, Lyman's *Diplomacy of the U. S.* (i. ch. 4); Bancroft, x. 59; J. C. Hamilton's *Republic of the U. S.;* Hildreth, iii. ch. 45; Irving's *Washington*, iv. ch. 32; Austin's *Gerry* (ch. 24); and Pitkin's *United States* (ii. ch. 15), on the American side; and on the English side we may select as representative treatments, Lecky's *England in the XVIIIth Century* (vol. iv.); William Massey's *England during the Reign of George III* (1855–63); and G. S. Craik and C. Macfarlane's *Pictorial Hist. of England during the Reign of George III* (1853). The view of a virulent refugee is found in Jones's *N. Y. during the Revolution* (ii. ch. 12). What seems to have been a part at least of the papers of David Hartley, was sold by G. Robinson, April 6, 1859, in London. The catalogue shows (no. 85) fifty-five letters of Franklin and Hartley (Feb., 1776–Dec., 1780), and from the *Catal. of MSS. of the British Museum* they seem to have passed into that collection. No. 84, which consists of six MS. volumes of documents relating to the negotiation of the peace of 1782–83, as copied and arranged by Hartley himself, came ultimately to this country, and finally passed into the collection of Mr. L. Z. Leiter, of Washington and Lake Geneva (Wisconsin). Cf. *Mass. Hist. Soc. Proceedings*, Oct., 1887. — Ed.]

[2] [Franklin's instructions of Oct. 22, 1778, are in Pitkin (ii. 503). Franklin's journal is also in

The despatches of the English negotiators (in the Lansdowne House MSS.) have been largely utilized by Lord Edmond Fitzmaurice in his *Life of Shelburne*, which contains probably the best narrative of the negotiation from an English point of view, and which brings incidental proof of the hostility evinced by Rayneval to American interests during

By the UNITED STATES in CONGRESS Assembled,

A PROCLAMATION.

WHEREAS definitive articles of peace and friendship, between the United States of America and his Britannic majesty, were concluded and signed at Paris, on the 3d day of September, 1783, by the plenipotentiaries of the said United States, and of his said Britannic Majesty, duly and respectively authorized for that purpose; which definitive articles are in the words following.

In the Name of the Most Holy and Undivided TRINITY.

IT having pleased the Divine Providence to dispose the hearts of the most serene and most potent Prince George the Third, by the Grace of God, King of Great-Britain, France and Ireland, Defender of the Faith, Duke of Brunswick and Lunenburg, Arch-Treasurer and Prince Elector of the Holy Roman Empire, &c. and of the United States of America, to forget all past misunderstandings and differences; that have unhappily interrupted the good correspondence and friendship which they mutually with to restore; and to establish such a beneficial and satisfactory intercourse between the two countries, upon the ground of reciprocal advantages and mutual convenience, as may promote and secure to both perpetual peace and harmony: And having for this desirable end, already laid the foundation of peace and reconciliation, by the provisional articles, signed at Paris, on the 30th of November, 1782, by the commissioners empowered on each part, which articles were agreed to be inserted in, and to constitute the treaty of peace proposed to be concluded between the crown of Great-Britain and the said United States, but which treaty was not to be concluded until terms of peace should be agreed upon between Great-Britain and France, and his Britannic majesty should be ready to conclude such treaty accordingly; and the treaty between Great-Britain and France, having since been concluded, his Britannic majesty and the United States of America, in order to carry into full effect the provisional articles abovementioned, according to the tenor thereof, have constituted and appointed, that is to say, His Britannic majesty on his part, David Hartley, esquire, member of the parliament of Great-Britain, and the said United States on their part, John Adams, esquire, late a commissioner of the United States of America at the court of Versailles, late delegate in congress from the state of Massachusetts, and chief justice of the said state, and minister plenipotentiary of the said United States, to their high mightinesses the States General of the United Netherlands; Benjamin Franklin, esquire, late delegate in congress from the state of Pennsylvania, president of the convention of the said state, and minister plenipotentiary from the United States of America at the court of Versailles; John Jay, esquire, late president of congress, and chief justice of the state of New-York, and minister plenipotentiary from the said United States at the Court of Madrid, to be the plenipotentiaries for the concluding and signing the present definitive treaty; who after having reciprocally communicated their respective full powers, have agreed upon and confirmed the following articles.

ARTICLE 1st. His Britanaic Majesty acknowledges the said United States, viz. New-Hampshire, Massachusetts-Bay, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jerley, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia, to be free, sovereign and independent states; that he treats with them as such, and for himself, his heirs and successors, relinquishes all claims to the government, propriety and territorial rights of the same, and every part thereof.

ARTICLE 2d. And that all disputes which might arise in future on the subject of the boundaries of the said United States may be prevented, it is hereby agreed and declared, that the following are and shall be their boundaries, viz.

From the north west angle of Nova-Scotia, viz. that angle which is formed by a line drawn due north from the source of Saint-Croix river to the Highlands; along the said Highlands which divide those rivers that empty themselves into the river Saint Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut river, thence down along the middle of that river to the forty-fifth degree of north latitude; from thence by a line due west on said latitude, until it strikes the river Iroquois or Cataraquy; thence along the middle of said river into lake Ontario, through the middle of said lake until it strikes the communication by water between that lake and lake Erie; thence along the middle of said communication into lake Erie, through the middle of said lake until it arrives at the water communication between that lake and lake Huron; thence along the middle of said water communication into the lake Huron; thence through the middle of said lake to the water communication between that lake and lake Superior; thence through lake Superior northward of the isles, Royal and Phipeaux to the long lake; thence through the middle of said long lake and the water communication between it and the lake of the Woods, to the said lake of the Woods; thence through the said lake to the most north-western point thereof, and from thence on a due west course to the river Mississippi; thence by a line to be drawn along the middle of the said river Mississippi, until it shall intersect the northernmost part of the thirty-first degree of north latitude. South by a line to be drawn due east from the determination of the line last mentioned, in the latitude of thirty-one degrees north of the equator, to the middle of the river Apalachicola or Catahouche; thence along the middle thereof to its junction with the Flint river; thence straight to the head of Saint Mary's river; and thence down along the middle of Saint Mary's river to the Atlantic Ocean. East by a line to be drawn along the middle of the river Saint-Croix, from its mouth in the bay of Fundy to its source, and from its source directly north to the aforesaid Highlands which divide the rivers that fall into the Atlantic Ocean from those which fall into the river Saint Lawrence, comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between Nova-Scotia on the one part, and East Florida on the other, shall respectively touch the bay of Fundy, and the Atlantic Ocean, excepting such islands as now are or heretofore have been within the limits of the said province of Nova Scotia.

ARTICLE 3d. It is agreed that the people of the United States shall continue to enjoy unmolested the right to take fish of every kind on the Grand Bank, and on all the other banks of Newfoundland; also in the gulph of Saint Lawrence, and on all other places in the sea, where the inhabitants of both countries used at any time heretofore to fish; and also that the inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use, (but not to dry or cure the same on that island) and also on the coasts, bays and creeks of all other of his Britannic Majesty's dominions in America; and that the American fishermen shall have liberty to dry and cure fish in any of the unsettled bays, harbours and creeks of Nova-Scotia, Magdalen islands, and Labradore, so long as the same shall remain unsettled, but so soon as the same or either of them shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement, without a previous agreement for that purpose with the inhabitants, proprietors or possessors of the ground.

ARTICLE 4th. It is agreed that creditors on either side, shall meet with no lawful impediment to the recovery of the full value in sterling money, of all bona fide debts heretofore contracted.

ARTICLE 5th. It is agreed that the Congress shall earnestly recommend it to the legislatures of the respective states, to provide for the restitution of all estates, rights and properties, which have been confiscated, belonging to real British subjects, and also of the estates, rights and properties of persons resident in districts in the possession of his majesty's arms, and who have not borne arms against the said United States. And that persons of any other description shall have free liberty to go to any part or parts of any of the Thirteen united States, and therein to remain twelve months unmolested in their endeavours to obtain the restitution of such of their estates, rights and properties, as may have been confiscated; and that Congress shall also earnestly recommend to the several states a reconsideration and revision of all acts or laws regarding the premises, so as to render the said laws or acts perfectly consistent, not only with justice and equity, but with that spirit of conciliation, which on the return of the blessings of peace should universally prevail. And that Congress shall also earnestly recommend to the several states, that the estates, rights and properties of such last mentioned persons shall be restored to them, they refunding to any persons who may be now in possession the bona fide price (where any has been given) which such persons may have paid on purchasing any of the said lands, rights or properties since the confiscation. And it is agreed that all persons who have any interest in confiscated lands, either by deeds, marriage settlements, or otherwise, shall meet with no lawful impediment in the prosecution of their just rights.

ARTICLE 6th. That there shall be no future confiscations made, nor any prosecutions commenced against any person or persons for or by reason of the part which he or they may have taken in the present war; and that no person shall on that account, suffer any future loss or damage, either in his person, liberty or property, and that those who may be in confinement on such charges, at the time of the ratification of the treaty in America, shall be immediately set at liberty, and the prosecutions so commenced be discontinued.

ARTICLE 7th. There shall be a firm and perpetual peace between his Britannic Majesty and the said States, and between the subjects of the one, and the citizens of the other, wherefore all hostilities both by sea and land shall from henceforth cease: all prisoners on both sides shall be set at liberty, and his Britannic Majesty shall with all convenient speed, and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies, garrisons and fleets from the said United States, and from every post place and harbour within the same, leaving in all fortifications the American artillery that may be therein, and shall also order and cause all archives, records deeds and papers, belonging to any of the said states, or their citizens, which in the course of the war may have fallen into the hands of his officers, to be forthwith restored and delivered to the proper states and persons to whom they belong.

ARTICLE 8th. The navigation of the river Mississippi, from its source to the Ocean, shall forever remain free and open to the subjects of Great-Britain and the citizens of the United States.

ARTICLE 9th. In case it should so happen that any place or territory belonging to Great-Britain or to the United States, should have been conquered by the arms of either from the other, before the arrival of the said provisional articles in America, it is agreed, that the same shall be restored without difficulty, and without requiring any compensation.

ARTICLE 10th. The solemn ratification of the present treaty, expedited in good and due form, shall be exchanged between the contracting parties, in the space of six months, or sooner if possible, to be computed from the day of the signature of the present treaty. In witness whereof, we the undersigned, their ministers plenipotentiary, have in their name and in virtue of our full powers, signed with our hands the present definitive treaty, and caused the seals of our arms to be affixed thereto.

DONE at Paris, this third day of September, in the year of our Lord one thousand seven hundred and eighty-three.

(L. S.) D. HARTLEY. (L. S.) JOHN ADAMS.
(L. S.) B. FRANKLIN.
(L. S.) JOHN JAY.

AND we the United States in Congress assembled, having seen and duly considered the definitive articles aforesaid, did by a certain act under the seal of the United States, bearing date this 14th day of January 1784, approve, ratify and confirm the same and every part and clause thereof, engaging and promising that we would sincerely and faithfully perform and observe the same, and never suffer them to be violated by any one, or transgressed in any manner as far as should be in our power: and being sincerely disposed to carry the said articles into execution truly, honestly and with good faith, according to the intent and meaning thereof, we have thought proper by these presents, to notify the premises to all the good citizens of these United States, hereby requiring and enjoining all bodies of magistracy, legislative, executive and judiciary, all persons bearing office, civil or military, of whatever rank, degree or powers, and all others the good citizens of these States of every vocation and condition, that reverencing those stipulations entered into on their behalf, under the authority of that federal bond by which their existence as an independent people is bound up together, and is known and acknowledged by the nations of the world, and with that good faith which is every man's surest guide within their several offices jurisdictions and vocations, they carry into effect the said definitive articles, and every clause and sentence thereof, sincerely, strictly and completely.

GIVEN under the Seal of the United States, Witness his Excellency THOMAS MIFFLIN, our President, at Annapolis, this fourteenth day of January, in the year of our Lord one thousand seven hundred and eighty-four, and of the sovereignty and independence of the United States of America the eighth.

Elias Thomson jun.

ANNAPOLIS: *Printed by* JOHN DUNLAP, *Printer for the United States in Congress assembled.*

NOTE. — [The above cut is a reduced fac-simile of a broadside among the Meshech Weare Papers (Mass. Hist. Soc., vol. ii. p. 114), announcing the signing of the definitive treaty of peace.

W. S. Appleton describes a series of ten medals, struck at different times to commemorate the peace (*Mass. Hist. Soc. Proc.*, xi. 301. Cf. *Amer. Jour. of Numismatics*, ii. 63; *Coin Collectors' Journal*, iv. 145; Baker's *Medallic Portraits of Washington*, p. 36). — ED.]

his visit to England, confirming Jay's conviction and justifying his mission of Vaughan to counteract Rayneval's influence.

Rayneval's narrative of his conversations with the English ministers is among the Stevens MSS. His instructions and extracts from his letters to Vergennes are given by De Circourt (iii. 29, 56). The account of his mission, which he gave to Monroe in a letter dated Nov. 14, 1795, is printed in the appendix to Rives's *Madison*, vol. i. The intercepted letter of Marbois on the fishery is given in the appendix to vol. i. of Jay's *Life*, in English. It is unaccountably omitted in the *Diplomatic Correspondence*, although Jay's letter in regard to it is given.[1]

Debates in Congress on the question of cancelling the ministers' instructions to confide in France are recorded in the papers of Charles Thomson, the secretary of the Continental Congress. The reports of these debates last from July 22 to Sept. 20, 1782, and are printed in the *Collections of the New York Historical Society* for 1878. The reports kept by Madison, and printed in Madison's *Works*, begin in November of the same year, and contain an account of the reception of the preliminary articles in Congress which supplement the letters of Luzerne.[2]

Where original authorities were unattainable, use has been made, in the preceding narrative, of Mr. Bancroft's *History*[3] and other standard works upon early American diplomacy; e. g., Lyman's *Diplomacy of the United States*, excepting where their statements or conclusions are modified or reversed by later writers, to whom reference is made in the notes.

The accuracy of the history of the negotiation given in the *Life of John Jay*, by William Jay, was vouched for by one of the English negotiators, Fitzherbert, subsequently Lord St. Helens, who afterwards (July 29, 1838) referred to the memoirs as particularly interesting to himself from his intimate acquaintance and political intercourse with Mr. Jay

Dipl. Corresp., iii. 376; Bigelow's *Franklin*, iii. 66, including the "notes for conversation," which is given also in Fitzmaurice's *Shelburne*, from a copy in the Lansdowne MSS. Cf. Parton's *Franklin*, ii. 458. Sparks adds in foot-notes extracts from the correspondence of Oswald and the ministry. (Cf. ix. 303.) The letters of Franklin while in France, are in Sparks, vol. viii. Franklin was well aware that the French ministry communicated nothing to the American commissioners, and assigned it as a reason why he could join with Jay and Adams in concealing their negotiations from Vergennes (*Adams-Warren Correspondence*, p. 427). Henri Martin says the study of Franklin by P. Chasles in the *Revue des deux Mondes* (xxvi. 294) is "very unfriendly, and more witty than accurate." The opinion entertained of Franklin in England was very strong that he was an inveterate hater of England, and the estimates of him in that country have been tinctured by this belief. Cf. Thomas Hughes in *Contemporary Rev.* (1879).

John Adams at a later day told the story of the negotiations, as he observed them, in a series of letters in the *Boston Patriot* (May 9, 1809, to Feb. 10, 1810), which were afterwards in part published separately, in Boston, as *Correspondence of the late President Adams*. This portion of the correspondence was not included in that part of these contributions printed in *John Adams's Works*, vol. ix. (Cf. *Ibid.* x. 148.) He repeats the story of his services in the *Adams-Warren Correspondence* (p. 428 *et seq.*). There is a brief study of John Adams's ways in diplomacy in John T. Morse's *John Adams*, ch. vii. Cf. a *Collection of State Papers relative to the acknowledgment of the sovereignty of the United States; to which is prefixed, The political character of John Adams, Ambassador to the Netherlands* (London, 1782). His diary in *Works* (vol. iii.) gives the current events and observations. — Ed.]

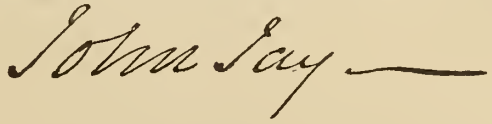
[1] [An early copy of the Marbois letter is given in the *Mass. Hist. Soc. Proc.* (November, 1863, vii. 262), which differs a little from that given in Pitkin (ii. 528) and in Jay's *Jay* (i. 490). Cf. on this letter *John Adams's Works*, i. App. D.— Ed.]

[2] [The action in Congress during the progress of negotiations is traced in their *Journals;* Madison's *Writings*, i. 61, 515; Rives's *Madison*, i. ch. 12; Hamilton's *Republic U. S.*, ii. ch. 31; *Dipl. Corresp.;* the debates, Nov. 4, 1782 – June 21, 1783, are in *Madison Papers*, i. 187. The definitive treaty was ratified by Congress, Jan. 14, 1784, and proclaimed with the recommendations to the States, required under it (*Secret Journals*, iii. 433; Jones, *N. Y. during the Rev.*, ii. 669). It was ratified by the king, April 9. —Ed.]

[3] [Bancroft has been able to avail himself of all the new material except the Franklin MSS. (used by Wharton), and he had had copies of the Shelburne Papers before Fitzmaurice used them, and had helped Circourt in his collection. Bancroft's account is the best in the general histories. — Ed.]

when they were respectively employed at Paris in 1782; and remarked that he could safely add his testimony to the numerous proofs afforded by these memoirs that it was not only chiefly, but solely, through Jay's means that the negotiations of that period between England and the United States were brought to a successful conclusion, and pronounced the narrative of the negotiation given by Judge William Jay perfectly true throughout.

Jay's narrative has been followed by Flanders in his *Lives of Chief Justices*. Parton's *Life of Franklin* treats as unfounded the views of Jay and Adams on the unfriendly policy of France, and gives the credit of the negotiation exclusively to Franklin. The services of the three American negotiators have been briefly characterized by Mr. Trescot in the following terms: "The very variety of their characters adapted itself to their necessities: and if the deferential wisdom of Franklin smoothed the difficulties of the French treaty, the energetic activity of Adams conquered the obstacles to the alliance with Holland, and the conduct of the negotiation with England was guided by the inflexible firmness of Jay."[1]



[1] [It is fair to say that until the recent developments of Fitzmaurice in his *Life of Shelburne* and of Count Circourt in his *L'Action Commune*, etc., the almost universal opinion in regard to the sincerity of Vergennes and the suspicions of it by Adams (cf. *Life of John Adams*, by Charles Francis Adams) and Jay had been opposed to the views entertained by those negotiators; and some of the best investigators since the new material was available have sustained these earlier and customary judgments, — even Lecky (iv. 276–285), who considers Fitzmaurice's *Life of Shelburne* the best exposition of the progress of the negotiation, considers that the distrust of Vergennes by Jay and Adams was groundless, though Lecky's development of the French policy hardly justifies his conclusion, unless he means that the American commissioners distrusted Vergennes' loyalty to the cause of American independence, which they certainly did not do. (Cf. Mr. Jay's *Address*, 1883, p. 112.) The last examination in that spirit has been made by Dr. Francis Wharton, the solicitor of the department of state at Washington, in the *Appendix to Volume III. of Digest of International Law* (Washington, 1887). He gives some of the correspondence from the Stevens-Franklin MSS. not before in print. It is claimed by this writer that the treaty was one of partition and not of grant, and that therefore the prior rights of the colonies as to the fisheries and navigation remained to the United States. He traces the predilections of the leading negotiators. Of Shelburne he takes a higher view than Lecky. Fox he looks upon as overcome by faction and passion. Of Vergennes he holds that while that minister avowedly wished to secure the fisheries to France and the Mississippi to Spain, he engaged in no negotiation without the privity of the Americans, except what was necessary and customary in preliminary inquiries, — a statement that seems to allow the United States the same right. In claiming that Vergennes did not swerve from his expressed purpose of securing to the United States the acknowledgment of independence only, he does not seem to allow that the conditioning it, under a secret treaty with Spain, on the wresting of Gibraltar from England put the United States at a disadvantage that was not contemplated in the alliance. Dr. Wharton traces the main success of the American negotiations to Franklin, and thinks the loss of Canada owing to Franklin's being hampered by his associates. His opinions, accordingly, of Adams and Jay, as compared with Franklin, are qualified by what he deems their embarrassing characteristics. In assuming that the treaty would have failed, except for the acquiescence of Vergennes, Dr. Wharton equally assumes that Congress would have been prevented by France from ratifying the treaty. "Our way of thinking must be an impenetrable secret to the Americans," was Vergennes' caution to Luzerne, Oct. 14, 1782 (Circourt, iii. 288). It is not quite so impenetrable now with the newer lights.

The view adverse to Vergennes has been of late years best expressed by Mr. Jay, the writer of the present chapter, in his address on *The Peace Negotiations of 1782 and 1783*, before the N. Y. Hist. Society in 1883, and again in the present chapter. His father, William Jay, also held some correspondence in 1832 on the matter with John Quincy Adams, which is given in the *Mag. of Amer. Hist.*, Jan., 1879 (iii. 39). The life of Jay in Delaplaine's *Repository* falls in with Jay's own views. A recent book, *The Life and Times of John Jay, Secretary of Foreign Affairs under the Confederation, and first Chief-Justice of the United States, with a Sketch of*

EDITORIAL NOTES.

A. The Fisheries. — The documents preserved in the *Mass. Archives* (cf. *Boston Evening Transcript*, August 25, 1886) show how strenuously, when Acadia was French, the New England people pressed their claims to the fisheries, and how importunate they were when the negotiations of 1782 again brought in question their interests.[1] R. R. Livingston (January 7, 1782), in his instructions to the American commissioners, formulated the American claims (Sparks's *Franklin*, ix. 135–138; and for the insistence upon the point, see *Secret Journals of Cong.*, iii. 241). See the diplomatic conduct of the question set forth in Eugene Schuyler's *American Diplomacy* (ch. 8), in the history of the fishery question in the *Mag. Amer. Hist.*, July, 1886, in Chas. Isham's *Fishery Question* (N. Y., 1887), and in John Jay's *Fisheries dispute: a suggestion for its adjustment by abrogating the convention of 1818, and resting on the rights and liberties defined in the treaty of 1783. A letter to W. M. Evarts* (New York, 1887).[2] The intercepted letter of Marbois set forth the

Public Events from the opening of the Revolution to the election of Jefferson, by William Whitelock, also sustains the opinions of the Jays. The book is unfortunate in citing no authorities and in having no index. Among recent American writers, Col. T. W. Higginson in his *Larger History of the U. S.* (N. Y., 1886), and John Fiske in *Appleton's Cyclopedia of American Biography* (N. Y., 1887), in an article on Franklin, sustains the course of Jay and Adams. Some other of the later writers have been influenced by similar views, as John T. Morse in his *Hamilton* (i. 82) and *John Adams* (p. 159), and more cautiously, perhaps, John Bigelow in a note to his *Life of Franklin* (iii. 211), where he prints certain parts of the secret treaty of France with Spain, April 12, 1779, of which Sparks, who first formulated the defence of Vergennes, was not at the time well informed. Sparks says of it in some notes among the Sparks MSS. (vol. xxxii.): "I read it in the Archives des Affaires Etrangères on the 29th Oct., 1828;" and then gives the substance, which, he adds, he "committed to writing immediately after reading, not being permitted to copy it in detail." He added to this statement at a later date: "I have since obtained a copy of it." (Cf. Bancroft, x. ch. 8.) This "Convention entre la France et l'Espagne du 12 Avril, 1779," is in Circourt (iii. 335), with two letters (May 5, 1782, June 8, 1782) of Montmorin to Vergennes relative to the execution of the treaty. Sparks's views, adverse to Jay's, took shape in a long note to Jay's exposition of his own opinions in the *Diplomatic Correspondence* (viii. 129–212). C. F. Adams has censured Sparks for using a publication of the government for circulating his individual views. Sparks reiterated his views to Madison (*Madison's Letters*, iv. 83), and in his *Gouverneur Morris* (i. 238) and his *Franklin* (i. 492, 495); and Mr. Jay in his *Address* (pp. 112, 215) has particularly answered him. Franklin himself held, in a somewhat slippery way, however, to the erroneousness of the views of Jay and Adams, as did Laurens (*Dip. Corres.*, ii. 485; iv. 138; cf. also x. 187). These protestations and the arguments of Sparks have largely influenced the opinion of later writers like Parton in his *Franklin* (ii. 455, 479, 486, 506), George W. Greene in his *Historical View* (p. 205), Hildreth (iii. 421), and George T. Curtis in a paper in *Harper's Mag.* (April and May, 1883). One is somewhat amused at the ease with which Rives (*Madison*, i. 355) accepts the "tone and spirit" of so versatile an intriguer as Vergennes when shown in his letter to Luzerne, because it "affords convincing proof of the injustice of the suspicions of the American commissioners." That Marshall and Washington were not deceived as to the purposes of France is quite clear from the way in which the negotiations are treated in the *Life of Washington*, and in the letter of Pinckney, Washington's secretary of state, Jan. 19, 1797 (*Amer. State Papers*, i. 559, 576). The leading later English historians have taken the view of Sparks, like Mahon (vii. 198), and Knight's *Popular History of England* (vi. 457); but the Tory historian Adolphus seems to recognize the wily purposes of Vergennes (*England*, iii. ch. 47 and 48). Massey (*England*, iii. 136) holds that "there was nothing in the conduct of the French government to justify such ungenerous conduct," and points out that the Marbois letter did not come to light till the Americans had entered upon their negotiations apart from France. Fitzmaurice (*Shelburne*, iii.) adopts in the main the views of William Jay in his *Life of John Jay;* and for further alleging of the French duplicity, see T. H. Dyer's *Modern Europe* (iv. 286), Coxe's *Spanish Bourbons* (v. 137), and his *House of Austria* (ii. 603). Cooper picked up some reports which he gives in his *Travelling Bachelor* (London, 1828), i. p. 105. — Ed.]

[1] Cf. for instance, W. Bollan's *Ancient right of the English nation to the American fishery* (London, 1764; Boston, 1768, — with a map. Cf. Sabin, ii. no. 6,208; Carter-Brown, iii. 1384); Lorenzo Sabine's *Report on the Fisheries*, p. 132; and Lalor's *Cyclopædia*, iii. 941.

[2] Cf. further the Marquis of Lorne in the *Eclectic Mag.*, cviii. 693; J. C. Hamilton's *Republic*, ii. 482; G. T. Curtis in *Harper's Monthly*, lxvi. 676; and references in Jones's *Index to Legal Periodicals*, p. 206.

urgency of Sam. Adams in the matter (Wells's *Adams*, iii. 150). It was upon this point that John Adams assumed the greatest share of responsibility in the negotiations (*Works*, i. 380–382; his diary in *Ibid.* iii. 333, etc.; and letters, x. 137, 160, 403). Franklin was later charged with lukewarmness upon this point, but Jay and Adams seem to acquit him (Bigelow's *Franklin*, iii. 234, etc.).

B. The Northern Boundaries. — A letter of R. R. Livingston, Jan. 7, 1782, to Franklin had set forth the American view,[1] and we have the commissioners' response to Livingston as to the bounds agreed upon.[2] The English commissioners claimed the territory of Maine westward to the Piscataqua, and successively abandoned claims of extension to the Kennebec and the Penobscot, and finally stopped at the St. Croix.[3] Oswald had in the first instance yielded to the St. John, and in connection had suggested a line from the westerly end of the forty-fifth parallel (as agreed finally), south of the Ottawa and mainly parallel to that river, to Lake Nipissing, thence westerly across the outlet of Lake Superior to the Mississippi. This yielded conformity to the instructions which Congress had given John Adams, August 14, 1779.[4] The Americans in the beginning had pushed for the St. John, but finally withdrew to the St. Croix, — so that in the name of the river, at least, there was an agreement, and a river of that name was furthermore an affluent of the Passamaquoddy Bay. To reach it from the sea, the line must run between various islands, but without being farther defined than that such islands as had been customarily included within the limits of Nova Scotia were to belong to it still. From the head-waters of the St. Croix, without designating which of its upper branches should be taken, a line was to run due north till it struck the highlands which formed the divide between the St. Lawrence River and the Atlantic; and this left it uncertain whether the Bay of Chaleur and the Bay of Fundy would be deemed Atlantic waters, or for the purposes of the treaty distinct from such waters. The line was then to follow westerly this dividing ridge till it struck the northwestern source of the Connecticut, but with no indication of the particular stream which was intended.[5] It was then to follow the Connecticut down to the forty-fifth degree of north latitude, and pursue that parallel westerly till it struck the Iroquois or St. Lawrence River, on a line already surveyed, and assumed without due knowledge to be correct. It was then to run through the middle of the great lakes and connecting waters; but there were certain islands in its course which might be claimed for each side. It was to pass through Lake Superior north of Isle Phillippeaux, which did not exist, and from the westerly side of that lake it was to follow a water-way to the Lake of the Woods, on the groundless supposition that there was one near the north end of Isle Royale; thence to the northwest corner of that lake, on the equally groundless supposition that the forty-ninth parallel was struck at that point, and thence by a due west line to the head-waters of the Mississippi, which were supposed to be, but were not, due west of it.[6] This line was thus drawn in much ignorance of geography, and in trustful dependence in some parts on anterior definitions of the bounds intended. There was ample verge for dispute, and the final determination was not reached till 1842, — a space of sixty years of uncertainty and danger, and then by compromise and agreement, rather than by elucidation of the treaty.

The first serious question arose upon the identity of the St. Croix River. John Adams had insisted[7] that the river of that name, which in documentary records between the English and French had been so constantly held to be the western limits of Acadia or Nova Scotia, was the St. John;[8] but the map used in the treaty had limited the region of its mouth to the Passamaquoddy Bay. Here there were three rivers, and on the maps then current all three were called St. Croix, as the different geographers inclined. On the map which the commissioners used (Mitchell's of 1755), only two of the rivers were delineated, and these were the longer ones,

[1] Sparks's *Franklin*, ix. 128.

[2] *John Adams's Works*, viii. 18.

[3] Adams, i. 665. This was insisted on by Strachey. Adams (i. App. C) tells us how he was prepared to insist on the region of Sagadahock as coming within the old bounds of Maine. When the proclamation of 1763 was issued, it was settled that Massachusetts gave up her claim to the territory bordering on the St. Lawrence, north of the height of land, and as an offset the crown ceased to make any claim on the land between the Penobscot and the St. Croix. This British claim westerly beyond the St. Croix was simply a somewhat stultifying attempt to adopt for a present purpose what had been in times past the French claim of the western bounds of Acadia, which the English had always denied. It perhaps shows French influence against the colonies that as late as 1776 D'Anville's *Partie Orientale du Canada* (Venice) put the line at the Kennebec, while Phelippeaux's *Carte Générale des Colonies Anglaises* (1778) carries it east of the Kennebec. Moll, the English geographer, had indeed defined New Scotland in 1715 as bounded west by the Saco. The Massachusetts charter of 1692 had included Nova Scotia; but when that province was later set off, it was by the old bounds of the St. Croix.

[4] This line, contrasted with the one arranged after Strachey joined, is shown in a map in Fitzmaurice's *Shelburne*, iii. 294. The instructions of Strachey were to press for boundaries more favorable to England than were settled for Canada by the proclamation of 1763.

[5] Cf. Levi Woodbury's speech in Benton's *Debates*, xiv. 572.

[6] The line then went down the Mississippi to latitude 31° north; thence due east to the river Appalachicola, and thence to its junction with Flint River; thence to the head of St. Mary's River, and by St. Mary's River to the ocean.

[7] He subsequently said there was no documentary evidence to justify the American commissioners to insist upon the St. John as being the St. Croix intended for the eastern boundary of Massachusetts (*Works*, viii. 210).

[8] The British commissioner, Oswald, had indeed, Oct. 8, 1782, consented to the line of the St. John, but his government failed to support his views. A map was found among Jay's papers, after the treaty of 1842 had been signed, in which the St. John was colored as "Mr. Oswald's line," — evidently a tentative draft, in accordance with this unsupported concession of Oswald. At that time it would then appear that the subsequent English discrimination between the "Atlantic" and the Bay of Fundy had not been broached. This Jay map was Mitchell's of 1755, colored, however, to conform to the later Quebec Act of 1774. It is reproduced in connection with Gallatin's "Memoir" in the *N. Y. Hist. Soc. Proc.*, 1843.

the smaller and most westerly being omitted. Of the two drawn, the name St. Croix was given to the most easterly, and it was along this stream, thus mapped, that the boundary line was drawn by the commissioners. The true position of the most easterly of these two upper rivers was farther down the bay, on its easterly side. The Americans had good reason for claiming that this river, the present Magaguadavic, was the St. Croix of the treaty, and so Franklin, Jay, and Adams testified[1] when settlers from New Brunswick (set off from Nova Scotia in 1784) began to pass westerly, and to establish their abodes near the mouth of the other of the two upper rivers, where St. Andrews now is. These encroachments were early the subject of examination and complaint, both by the general government and by Massachusetts, and investigations were made by General Rufus Putnam, and also by a commission consisting of Generals Lincoln and Knox and George Partridge, and the two former were then living in Maine.[2] The next year, Jay presented a project for a joint commission

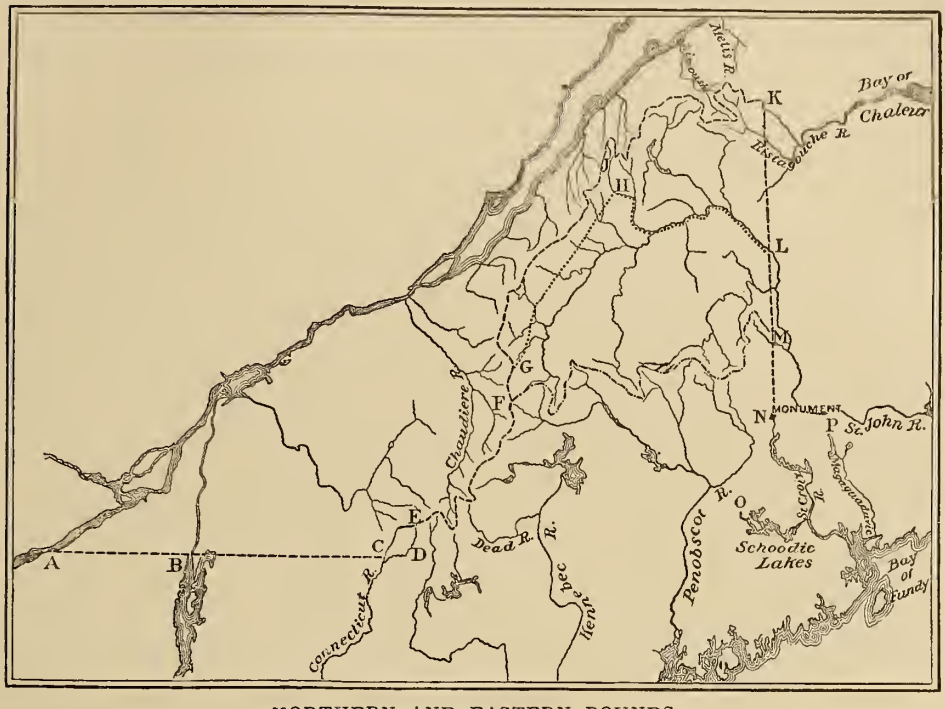
THE MONUMENT ON THE ST. CROIX.*

[1] Singularly enough, in view of the known diversity of opinion as to the St. Croix then existing among geographers, John Adams, in his deposition given to the commissioners for determining the St. Croix, says that the question of error or mistake in Mitchell's map was not suggested by any one at the time; but Jay, in his deposition at the same time, says that the question of the true river of that name was raised among the commissioners, but that they rested on the determination made by Mitchell in his assignment of the name.

[2] *State Papers: Foreign Relations*, i. 91–97 (Oct. 12, 1784).

* Sketched from a plate in Bouchette's *British Dominions in N. America*, p. 14 (London, 1832). A cedar stake was placed at the head of a small stream, selected as the main source of the river, and five feet south of it a yellow birch was hooped with iron. The condition of this last in 1817 is shown in the bare trunk to the left of the new monument, a cedar pillar, which was erected by the commissioners of the two governments engaged in marking the line. It bears these inscriptions: "Col. Jos. Bouchette, H. B. M. Surveyor-General," "John Johnson, U. S. Surveyor and S. G. V. S.," "New Brunswick, July 31, 1817," and "United States, 31st July, 1817." Rocks at the base on either side were also respectively marked.

to settle the questions at issue, and recommended that Moose and other islands in the bay should be occupied by garrisons.[1] In 1794 it was provided by the Jay treaty that commissioners should be appointed by both powers to determine the question of the St. Croix River and its divisionary branch. If the testimony of Mitchell's map was worth anything, there was no question that the easterly or Magaguadavie River (Mitchell's St. Croix) was the river intended by the treaty; but the westerly of the two *upper* rivers (the Schoodiac) was finally chosen by the commissioners,[2] because it was proved to be the original St. Croix, or the river so named



NORTHERN AND EASTERN BOUNDS.

Note to the Above Map. — The line beginning at A on the St. Lawrence, as earlier run on the parallel 45° to C, crossing the outlet of Lake Champlain near Rouse's Point, was found to be a trifle too far south of the true parallel, but by the treaty of 1842 was confirmed on the earlier supposed line. From C to E, the line by the treaty of 1842 was made to follow that branch of the Connecticut, Hall's Stream, nearer C, while the award of the king of the Netherlands had given the branch nearer D as the line. From E the line as claimed by the United States followed the broken line (— — —) to K. From F, as claimed by Great Britain, it followed the dot-and-dash line (. — . — . —) to M (Mars Hill). As finally settled in 1842, all north of the line of dots (following the bed of the river), extending from G through H to L, was given to Great Britain. If the award of the king of the Netherlands had been accepted, the United States would here have gained the long, narrow area, G, H, J. In determining which was the St. Croix, the British claimed that the headwaters of the Schoodiac Lake, at O, should be the place from which the due north line should start. The Americans claimed the Magaguadavic as the St. Croix, and the point P as the beginning of the due north line. By agreement, the monument was placed, in compromise, at the head of the other branch of the St. Croix at N.

The present sketch is based on the reduction of Graham's official map, published by order of the Senate in 1843, which is annexed to the Report of the commissioners to survey the bounds, in *Ho. of Rep. Exec. Docs., no. 31, 27th Cong., 3d session.* The map presented to the House of Commons by the queen's command, in pursuance of their address of the 27th March, 1843, represents the line of the British claim, running from a point on the western line a little below the 46° parallel, and striking the due north line at a point where the Aroostook River crosses it. Cf. reproduction in Fitzmaurice's *Shelburne*, iii. 324. This is the line as given in the map of Featherstonhaugh and Mudge (1839), of which Gallatin, in his *Right of the U. S.*, gives a reproduction.

[1] *State Papers: Foreign Relations*, i. 94, 96. In 1785 the New Brunswick sheriff endeavored to force the people of Moose Island to furnish jurors for the county court at St. Andrews. On May 18, 1786, John Adams drew the attention of the British government to the fact that British subjects were settling westward of the river claimed as the St. Croix (*Works*, viii. 392).

[2] The commissioners were David Howell for the States, Thomas Barclay for England; and they two chose Egbert Benson as a third. There are two portraits of Judge Benson by Stuart: one engraved by H. B. Hall, and owned by the Hon. John Jay; the other, engraved by C. Burt, belongs to the N. Y. Hist. Society. Cf. Mrs. Lamb's *New York City*, ii. 505; Hamilton's *Repub. of the U. S.* (1879), iii.; and Mason's *G. Stuart*. Judge James Sullivan was the American agent in the negotiations, who naturally in-

by Champlain and his party, the first to winter on the coast (1604–1605). This proof consisted in the fact that an island in the river, not far above St. Andrews, answered in topography and position to the island on which the French wintered, and because in removing brush and soil they found the foundations of buildings, which, with the shape of the island, corresponded sufficiently to the plan both of the island and its structures as given by engraving in Champlain's book (edition of 1613) describing their sojourn.[1] The award or "declaration" of the commission was made Oct. 15, 1798,[2] and a MS. statement of the grounds of the decision, by Egbert Benson, is in the Mass. Hist. Society library.[3]

The English, having substantiated their claim as to the river, failed, however, in securing the westernmost head of it as the starting-point of the due north line, which was instead placed at the source of the most northern branch,[4] and here a "monument" was established. The most vexatious question arose finally on the length of the line due north from this monument, which, according to the treaty, was to stop in the highlands which separated the waters of the St. Lawrence tributaries from those streams which flow into the Atlantic Ocean. A line thus extended reached, in fact, the dividing ridge which separated the waters of the St. Lawrence (river Metis) from those which flowed into the Bay of Chaleur (Restigouche River) instead of the Atlantic, and was accordingly, under the strict interpretation of the treaty, an impracticable boundary. Again, it crossed the upper waters of the St. John, which did not flow into the Atlantic, as the English understood the treaty, but into the Bay of Fundy;[5] and, moreover, they claimed that the Atlantic rivers should be wholly within the United States, making the divide, as they understood the only practicable solution of the treaty to be, the highland in which the Penobscot, the Kennebec, and Androscoggin have their source. By this view they studiously ignored the other description of the treaty that the waters on the other side of the divide should flow into the St. Lawrence. This interpretation would carry the north line only to a point about forty miles from the monument, near to an eminence known as Mars Hill, while the American claim carried the line about one hundred and five miles farther. The English were, however, a long while in reaching this conclusion, and were thought to have been pushed to it by feeling the necessity, during the war of 1812, of a readier and more direct military road between St. John and Quebec than would be possible if the boundary followed the southern

sisted upon the Magaguadavic as the true St. Croix. There is a chapter on the negotiations in T. C. Amory's *Life of James Sullivan* (i. ch. 14). Cf. *Life of Pickering*, iii. 278.

[1] See Vol. IV. p. 137. This island is now known as Douchet Island. A few years since I failed to find on it any trace of the buildings, the material having been used as foundations for the light-house and keeper's cottage, now maintained there by the United States government. Cf. Williamson's *Maine*, ii. 511. Champlain usually calls the river the River of the Etchemins, and the island St. Croix; but once he calls the river St. Croix. Lescarbot never calls the river by that name. The American agent attempted to show that the island did not necessarily give its name to the river.

[2] Given in *House of Rep. Ex. Doc., no. 31*, 27th Congress, 3d session, note ii.; Atcheson's *Amer. Encroachments*, London, 1808.

[3] *Proceedings*, ii. 190. The editor cannot find that this paper, of which copies were also given to the President of the United States and to the American minister in London, was printed at the time. He contributed it to the *Mass. Hist. Soc. Proc.*, October, 1887. The MS. has drawings of Champlain's map of the island, of a section of Mitchell's map, a modern survey of the island and of Passamaquoddy Bay. Which was the true St. Croix had long been in dispute. Jefferys, in his *New Map of Nova Scotia*, had called the present St. Croix "the Passamaquoddy or St. Croix," and the Magaguadavic the "St. Croix." Pownall, in his *Topographical Description*, in 1776, acknowledged his inability to decide; but in his additions to Evans's map he gives the name to the most westerly, and smaller, of the three rivers. Gov. Bernard, in receiving grants east of the Cobscook as lying within Nova Scotia, would imply that that river was the St. Croix. Carrington Bowles, in his *New Map of North America* (1783), tries to be impartial by running the boundary line by colors on the middle and by dots on the most western river. The *New and Correct Map of North America*, by Albert and Lotter (1784), calls the middle river the "old St. Croix," and the most westerly the "St. Croix," and starts the line from this river. When Osgood Carleton made the map for Sullivan's *Maine*, in 1795, he called the most easterly (Magaguadavic) the St. Croix, and that was the generally accepted American view. The mouths of the Schoodiac and the Magaguadavic were about sixty miles apart, but they approached within nine miles of each other at their sources. The region thus claimed by both (allowing the north branch of the Schoodiac to be the true source) embraced about two million acres. Cf. *Me. Hist. Soc. Coll.*, viii. 7; Gallatin's *North East Boundary* (1840), p. 52; Report of Renwick, etc., in *House of Rep. Ex. Doc., no. 31*, 27th Congress, 3d session, note iv. "It is astonishing," wrote John Adams in 1788, "that to this hour no man can produce a map of all the bays, harbors, islands, and rivers in that neighborhood that can be depended on" (*Works*, viii. 398). Samuel Holland's *Map of the Province of Lower Canada* (1802) has a plan of the "Scoudiac and Magaguadavic" as surveyed by the commissioners in 1796–98.

[4] The question turned largely upon the point whether the most remote head or that with the most copious flow was the true source. The two governments had respectively made grants on each side of this northern branch, and the British could gracefully yield their claim to the western branch in view of their securing the Schoodiac as the St. Croix.

[5] Cf. Nathan Hale, on this British claim, in the *Amer. Almanac*, 1840, p. 91. The claim of Mr. Hale (p. 94) is that the northwest angle of Nova Scotia is on the ridge separating the Restigouche from the St. John, whence the line proceeds along that ridge till it reaches the ridge in which the St. Lawrence streams take their origin.

A writer (C. Buller) on the question, in the *Westminster Review* for 1840, points out the difficulties in reconciling both the English and the American claims to the perfected geographical knowledge of the disputed country, though he insists that the change from "sea" (treaty of 1763) to "Atlantic Ocean" (treaty of 1782–83) was an intentional discrimination between the Bay of Fundy and the Atlantic Ocean. It is not quite easy to understand how Buller can reconcile his two statements that the bounds of the treaty of 1782–83 were "old acknowledged but unascertained lines," when he presses the "significant difference" between the "sea" used in older documents and "Atlantic Ocean" used in the treaty.

ridge of the St. Lawrence Valley. There had been, however, various indications of uncertainty before the British government's claim was for the first time fully set forth in Col. Joseph Bouchette's *Topographical Description of Lower Canada*, in 1815.[1]

There seems no ground to suppose that at the time of making the treaty in 1783 any one on either side imagined that the bounds of Maine did not extend to this dividing ridge of the St. Lawrence Valley, and for thirty years from the date of that treaty there was no question, by authority, of the jurisdiction of Maine up to that ridge.[2] The royal proclamation of Oct. 7, 1763, setting up the province of Quebec, marked its southern limits by that ridge, as dividing it from Maine; and in November, 1763, the commission of Montagu Wilmot as governor of Nova Scotia defines the limits of his government by a line due north from the source of the St. Croix to the southern bounds of Quebec; and the commission of the governor of Nova Scotia at the date of the treaty of 1783 was of precisely the same tenor. The Quebec Act of 1774 followed the same definitions. So it was clear that the commissioners of the treaty of 1783 intended to follow the definitions then in vogue as determining the northern bounds of Maine and the southern bounds of Quebec, which were one and the same. It is not only the evidence of these official and royal commissions and proclamation that place the bounds of Maine along the natural divide which forms the southern limits of the St. Lawrence Valley, but also the maps, without exception, published between 1763 and 1783 place the bounds there.[3]

It may be safely said that the same antagonistic agency, which during the final negotiations for peace had endeavored to curtail the bounds of the new republic, repress its ambition, and minimize its chances of affecting the schemes of France and Spain in the New World, was the earliest to point out to Great Britain, after the treaty was made, the course that she might pursue to recover some of the territory she had signed away. Vergennes had not forgotten the spirit of Turgot,[4] who as early as 1776 had looked for the repossession of Canada if the colonies succeeded; and as preliminary to this consummation, Vergennes saw the occasion of making Canada as broad as possible, so as to have the larger grasp to take, if repossession came. Accordingly, we find an old French claim to a line crossing the head-waters of the Penobscot and Kennebec, and closing in the English settlements, revived and made to stand for the line decided upon in the treaty. This was put forth in 1784 under the governmental sanction in Paris, as engraved by the "graveur du Roi," and given further significance by being dedicated to Franklin. A copy of this map, which had belonged to Jefferson, was brought forward in the debates on the treaty of 1842 in the Senate, and was shown to have a colored line to correspond to this old French claim, while an engraved pricked line marked the American

[1] Joseph Scott's *United States Gazetteer* (Philad., 1795) marks the boundary along the lower highlands in his large map of the United States, but in his map of Maine he traces it along the upper highlands, even throwing the upper waters of the Chaudière into Maine. The maps by J. Russell in Winterbotham's *View of the U. S.* (1795) support the British claim. Col. Gother Mann, in 1802, while commanding the engineers in Canada, pointed out to his government the military disadvantage to England of the upper highlands as a boundary (Brymner's *Report on Canadian Archives*, 1885, p. xcv). In 1810 the map in John Lambert's *Travels through Lower Canada and the United States* (London) puts the boundary on the lower highlands. Jos. Bouchette's *Map of Upper and Lower Canada* (London, 1815) has a compromise line, which allows the valley of the "Ristook" to Maine, but it also gives an alternative line in the lower highlands. The map in Wm. Newnham Blane's *Excursions through the United States and Canada* (London, 1824) allows the American claim, as does Basil Hall's map in his *Forty Etchings* (Edinburgh, 1829), and that also in his *Travels in N. America* (Edinburgh, 1829), as well as the map in James Stuart's *Three years in N. A.* (Edinb., 1833).

[2] The English subsequently said that this was suffered because of want of knowledge of the country. Bouchette (*British Dominions in North America*, i. 24) claims that the British mails from St. John to Quebec were uninterruptedly carried through this region. Previous to the treaty of 1763, the English had claimed that their rights in this region extended to the St. Lawrence. Moll in 1715 had so defined them. In 1755 we find the same thing in Jefferys' edition of D'Anville's *North America*, in Huske's *New and accurate Map of North America*, and in Jefferys' *New Map of Nova Scotia*. The Dutch maps of Covens and Motier and the German maps (Homann) of this time made similar dispositions. It proved later for the interests of the British to deny this, as was done argumentatively in Mudge and Featherstonhaugh's Report.

[3] Gallatin (*North-eastern Boundary*, N. Y., 1840, p. 77; *Memoir* read before the N. Y. Hist. Soc., 1843, p. 13) gives a list of nineteen such maps. Senator Woodbury says that Gallatin collected more than fifty such maps (Benton's *Debates*, xiv. 571). Such maps are Kitchin's (in Dodsley's *Amer. Reg.*, 1763, and in Knox's *War in America*, 1769), that in Wynne's *British Empire*, J. Palairet's (improved by Delarochette, and the one in the *Amer. Traveller*), Ridge's (in *Hist. of the War*, Dublin), several in Jefferys' *Atlas* (S. Dunn's, D'Anville's improved, Bowen and Gibson's, Sayer and Bennett's, corrected from Pownall's, etc.), D'Anville's improved by Bell, and Bell's in the *British Dominions in N. America* (1772), that in the *Amer. Mil. Pocket Atlas*, Faden's *British Colonies*, and the one in Carver's *Travels*, etc., etc. Gallatin gives fac-simile extracts from several of these; and he adds (p. 80) the titles of four other maps, equally conclusive, which were published in London between the signing of the provisional and definitive treaties, namely, one by Sayer and Bennett, Bew's in the *Political Mag.* (1783), and the maps of John Wallis and J. Cary, all professing to give the new United States in their territorial integrity. That of Wallis is given in fac-simile in Jones's *New York during the Rev.*, ii. 313. To these may be added Andrews' *New Map of the United States* (London, 1783).

Equally conclusive as to the prevailing accord upon what constituted the "highlands" of the treaty are the maps published within the next few years, like that in the *European Magazine*, Nov., 1783; that of Carrington Bowles (1783); Faden's, published as that of "the geographer to the king," in 1783; and that of Albert and Lotter (London, 1784). The map in Andrews' *American War* (London, 1786, vol. iii.) is too vaguely drawn to be evidence.

[4] Turgot's Reflexion on the Memorial of Vergennes, April, 1776, found in the cabinet of Louis XVI, and published by the National Convention of France, is in the main printed in the App. to Jed. Morse's *Thanksgiving Sermon* (Boston, 1799), p. 69. Cf. R. G. Harper's *Works*, Balt., 1819, p. 103.

claim. The map was called *Carte des Etats-Unis de l'Amérique, suivant le traité de paix de 1783* (Paris, 1784). The effect which was intended was immediate. Faden, the English royal geographer who had published, in accordance with prevailing views, a map in 1783, following the upper highlands, nearly parallel with the St. Lawrence, for the bounds of the treaty, suddenly wheeled about, and republished his map, with the bounds fixed on the line of this old French claim, as Vergennes had wished.

The times were not propitious for the English government further to pursue the hint. They were looking on to see the confederation tumble to pieces, and sue for their protection. The troubles following the French Revolution ensued, and more engrossing questions pressed the British ministry, so that the course so kindly indicated by Vergennes really dropped out of remembrance. The experiences of the war of 1812 brought the question once more to life. The failure of the American efforts in Canada inspired new hopes, and we find the extreme nature of some of them expressed in Nathaniel Atcheson's *Compressed View of the Points in treating with the United States* (London, 1814), which went so far as to urge the Penobscot as the boundary,

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and to include in Canada the water-shed of the great lakes, together with a cession of a tract in the Northwest, in order to give Great Britain access to the Mississippi, and so render operative the rights granted to her in the treaty of 1783, of free navigation of that river. What was seemingly an authoritative representation of the conclusions which by 1815 the British government had reached, was the distinct formulation of the claim which they ever after continued to press, and which appeared in 1815 in Bouchette's *Description of Lower Canada*. The spirit of Vergennes was triumphant, but France, with the experience of Waterloo, was not in a position to look for the profits once hoped for.

By the Treaty of Ghent (Dec. 24, 1814), it was provided for new joint commissions to settle these boundary differences, but on the question of the Maine highlands the effort was unavailing, as the agents of the two governments failed of an agreement.[1] Three years later, however (1817–1818), a joint scientific commission surveyed the "due north line," and it was at this time that the idea was first broached by a government

[1] There were four commissions under this treaty: 1, on the islands in the Passamaquoddy Bay, which agreed Nov. 24, 1817. 2, on the Maine highlands, the Connecticut headwaters, and the 45° parallel, which did not agree. 3, on the division of the islands in the St. Lawrence and the lakes as far as the main westerly inlet of Lake Huron, which agreed, June 18, 1822 (cf. Bouchette's *Brit. Dominions in No. Amer.*, i. App. 1). 4, on the extension of the bounds westward to the Lake of the Woods, which was left to the treaty of 1842 for settlement.

agent of Great Britain that this due north line should stop at or near Mars Hill, and that the line westward from that point should follow the height of land in which the Penobscot and Kennebec had their source.[1]

About the same time the commissioners, under the Treaty of Ghent, succeeded in closing (Nov. 24, 1817) the dispute about the islands in Passamaquoddy Bay, and Grand Menan, Campobello, and other islands were thus confirmed to Great Britain.[2]

From 1823 to 1827 there were continued negotiations between the two governments,[3] which finally resulted (Sept. 29, 1827) in the decision being left to the king of the Netherlands.[4]

This umpire was so strongly impressed with the geographical impracticabilities of the treaty that, instead of deciding the points at issue, he drew a compromise line largely upon the course of the St. John. His award (Jan. 10, 1831)[5] was rejected by the Senate, and met the protestations of the legislature of Maine, though President Jackson would have joined with the British government in accepting it.[6]

The best exposition of the position of Maine through the long controversy is given by Israel Washburn, Jr., in the *Maine Hist. Soc. Coll.*, vol. viii.[7]

The current opinion in Massachusetts at this time is shown in legislative documents.[8]

By 1838 the impending dispute seemed likely to be intensified till war was by no means improbable.[9] The frontiers were surveyed with reference to fortifying.[10] The New Brunswick government caused some arrests of Americans in the debatable territory, which served to embitter the local feelings.[11] The next year (1839) the governor of Maine moved the militia into the disputed territory, and the armed possession known as the Aroostook War, which cost the State of Maine over a million of dollars, was in daily danger of breaking into actual conflicts. The American government sent General Winfield Scott to mediate, and he succeeded in

[1] This, 1817–1818, due north line was the one followed in the final decision in 1842; though it is claimed that the slightly divergent *ex parte* line run a few years later by Maj. Graham, of the U. S. army, was more accurate (*Webster's Works*, vi. 276).

[2] George Chalmers' statement of the British claim to these islands, as being originally a part of Nova Scotia, is given in the *Aspinwall Papers* (*Mass. Hist. Soc. Coll.*), ii. 830. See the American view in James Sullivan's letter to Madison, May 20, 1802, in T. C. Amory's *Life of Sullivan*, ii. 399.

[3] Various tracts appeared in this interval; perhaps the most important on the English side was Henry Bliss, Jr.'s *Consideration of the Claims and Conduct of the United States respecting their North-Eastern Boundary, and Value of the British Colonies in North America* (London, 1826). A report of a committee of the legislature of Maine (1828) is in the *U. S. Senate Docs., 20th Cong., 1st sess., no. 171*. The same with other papers and historical proofs, and the report of Charles S. Davies on the British aggressions (originally Portland, 1828), make up a volume printed by the State of Massachusetts in 1828, called *Documents relating to the North-Eastern Boundary of the State of Maine*.

[4] Albert Gallatin prepared the American statement for the Dutch king, and this was later published by him as the *Rights of the United States of America to the North-Eastern Boundary claimed by them, principally extracted from the statements laid before the king of the Netherlands, and revised by Albert Gallatin* (N. Y., 1840), the main points of which are also included in his *Memoir read before the N. Y. Hist. Soc.* (*Proc.*, 1843). The official edition of the American case is the *Statement on the part of the U. S.* (Washington, 1829, folio), together with a *Definitive statement* (1829) and *An Appendix* (1829). Many of the papers of the American commissioners are now in the possession of the Hon. George S. Hale, of Boston, whose father, Selma Hale, was secretary of the commission. Cf. Peleg Sprague's *Speeches and Addresses* (Boston, 1858). The English case is set forth in *Remarks upon the disputed points of Boundary, principally compiled from the statements laid by the government of Great Britain before the king of the Netherlands* (St. John, N. B., 1st ed., 1838; 2d ed., 1839). The documents in the case accruing after 1827 were published in a blue book by the English government in 1838 as *North American Boundary, A.*

[5] It is given in the *Remarks upon the disputed points of Boundary*, etc., St. John, 2d ed., 1839, App. i., and elsewhere. He gave 7,908 square miles to the United States, and 4,119 to Great Britain. He met the British claim as to the head-waters of the Connecticut. He offered the true parallel of 45°, but by a circling line brought the new fort which the United States had built within their jurisdiction.

[6] *Resolve of the Legislature of Maine on the King of Netherlands award* (Portland, 1831). *Message of the gov. of Maine and Docs. on the doings of the arbiter, with Report of the Com. of the Legislature* (Augusta? 1831).

Joseph Bouchette's *British Dominions in North America* (London, 1832), vol. i. ch. 1, rehearses once more the British claims, and gives the Dutch king's award (vol. i. App. 19), with the protest of the American minister at the Hague, Jan. 12, 1831 (App. 20). Cf. W. P. Preble's *Decision of the King of the Netherlands* (Portland, 1831); and the account of the proceedings leading up to the award in J. A. Hamilton's *Reminiscences*, pp. 590, 606.

[7] Cf. also Senator Woodbury in Benton's *Debates*, xiv. pp. 574, 595, and the letters of the Maine commissioners to Mr. Webster, accompanying the publication of the treaty (*Ho. of Rep. Doc., no. 2, 27th Cong., 3d session*). The most untiring advocate of the rights of Maine, between 1825 and 1831, and the writer of most of the official reports of the State on the matter, was John G. Deane, and an enumeration of his reports and testimony to his labors will be found in Llewellyn Deane's *Biog. Sketch of John G. Deane* (privately printed, Washington, 1887).

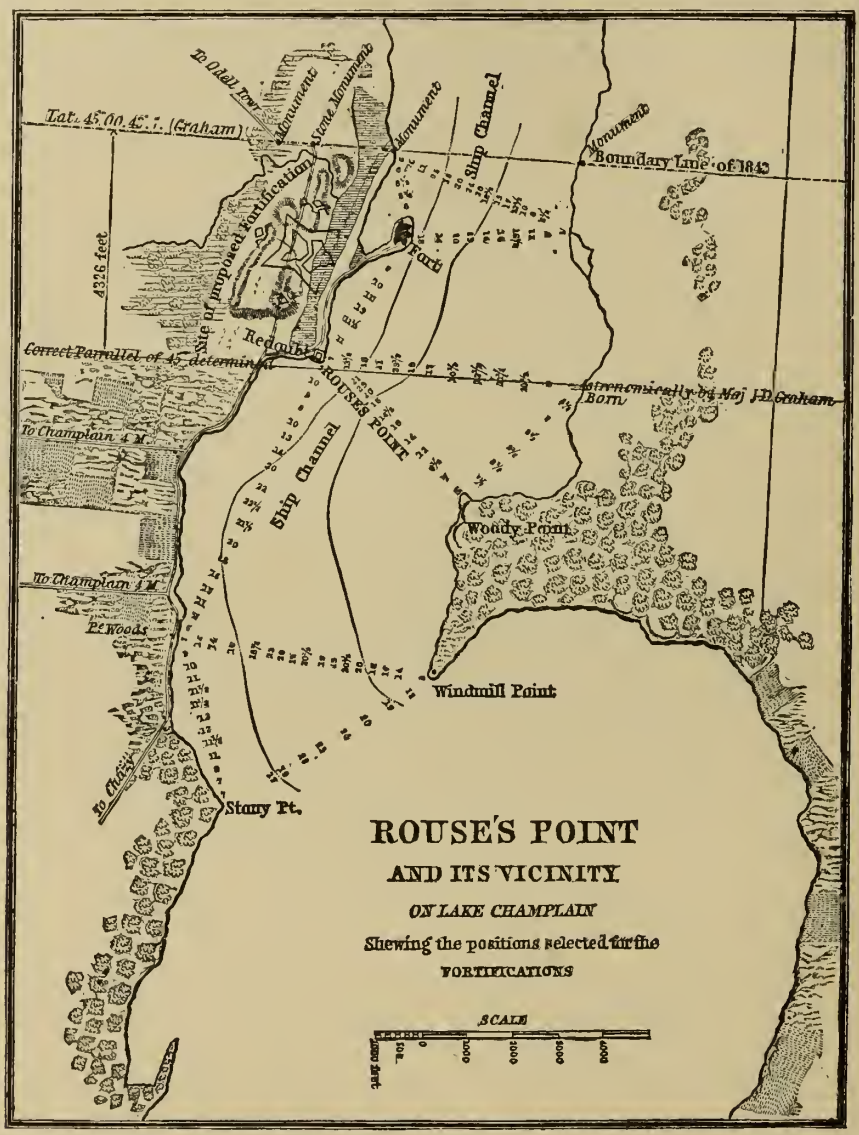
[8] *Report of the Com. on Public Lands on the subject of the N. E. Boundary* (Boston, 1832); *Documents published by the Senate of Mass.* (1834 and 1835); *Report and Resolves, Mass. Legislature, Senate, no. 67* (*1838*); *Message from governor of Mass. communicating docs. from Maine, Senate, no. 36* (1839); *Papers relating to the N. E. Boundary, Mass. Gen. Court, Senate, no. 45* (*1839*).

[9] The extreme British view was expressed in Patrick Yule's *Remarks on this disputed north west boundary of New Brunswick* (London, 1838). The correspondence and papers of the British government (Feb., 1838, to June, 1840) constitute the blue book, *North Amer. Boundary, Parts I. and II., presented to Parliament July, 1840* (London). Cf. also David Urquhart's *Exposition of the Causes and Consequences of the Boundary Differences subsequently to their Adjustment by Arbitration* (not published, Liverpool, 1839).

[10] *Senate Doc. 35, 25th Cong., 3d session.*

[11] *Message of the President, transmitting information in relation to the Imprisonment of Mr. Greely, at Fredericton, in the British Province of New Brunswick; also documents in relation to the Northeastern boundary question, etc.* (Wash., 1838).

inducing both the authorities of Maine and of New Brunswick to withdraw their forces during negotiations, which were again on foot.[1] The British government, meanwhile, caused Messrs. Mudge and Featherstonhaugh to make a new survey of the line, as claimed by them,[2] and, as an offset to this, the United States government appointed a commission to make a survey on their part, and to examine the arguments of the English commission.[3] The correspondence of the two governments still went on during 1840 and 1841.[4]



NOTE. — Reproduced from a corner map in a *Map of the various lines between the United States and the British provinces, reduced from the official map of Major J. D. Graham, published by order of the Senate, 1843.*

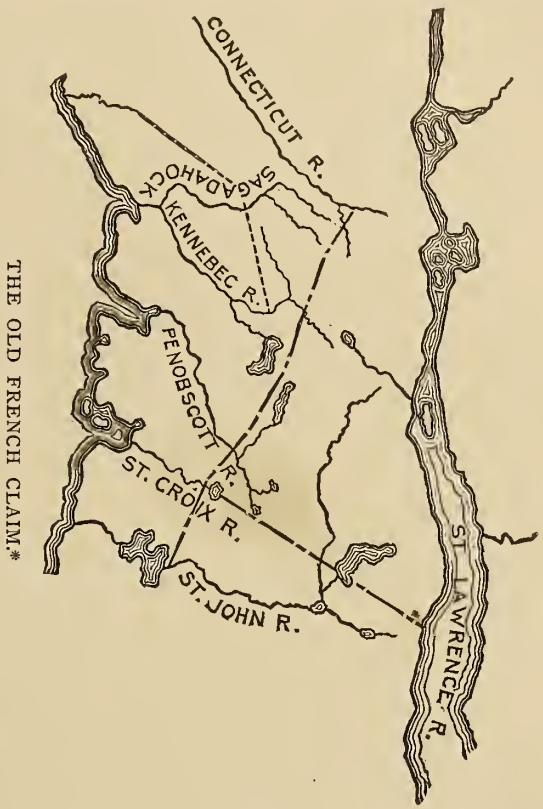
[1] The correspondence is in the *North American Boundary* (Blue Book), Part I., London, 1840. Charles Sumner, then in Paris (1839), wrote out a temperate statement of the American case, which was printed in *Galignani's Messenger*, and distributed in England. The paper was reprinted in the *Congressional Globe* (Pierce's *Sumner*, ii. 83).

[2] Gallatin reproduces their map (1839) Their report, with appendix and map, is in the Blue Book, *No. Amer. Boundary*, London, 1840, Part II. They went so far as to urge the opening again of the question of the St. Croix, in order to secure the Western branch as the true source of that river.

[3] Their report, March 28, 1842, is in *Ho. of Rep. Ex. Doc., no. 31, 27 Cong., 3d session*, with maps.

[4] Corresp. of the British ministry with the Secretary of

Early in 1842, there being a mutual understanding that a compromise line could be assented to by both governments,[1] Lord Ashburton came to America, empowered to conduct a negotiation on that basis with Daniel Webster, then Secretary of State. In June the communications began, and August 9th what is known as the Webster-Ashburton treaty was signed, with the assent of commissioners appointed by Maine and Massachusetts, — the latter State having an interest in the unsettled parts of Maine. The treaty[2] embraced other matters than those of the disputed boundary; but these last contentions were now finally set at rest all along the line to the Rocky Mountains, for the acquisition of Louisiana had meanwhile added to the United States the region beyond the Mississippi. Of the territory in dispute in Maine, seven-twelfths were secured to the United States, and the course of the St. John and St. Francis, west of the due north line, was settled upon, with an arbitrary straight line farther west, to that Branch (Hall's) of the Connecticut which favored most the United States, and gave 100,000 acres to New Hampshire. The commissioners of Maine reluctantly assented, out of regard for the general interests of the whole country, and it was their consent which was mainly instrumental in securing the ratification by the Senate. Both Maine and the United States received compensating grants for the surrender of the five-twelfths of the territory, which, on a question of right, the United States as well as Maine insisted was properly theirs. To Maine was secured the free navigation of the St. John, and she was paid by the federal government $150,000 and relieved of the expenses of the Aroostook War. The United States received new accessions of territory along other parts of the boundary. The line of the 45° parallel had been accepted, under the treaty of 1783, by trusting in the surveys of Valentine and Collins, made between 1763 and 1767.[3] In the same confidence the United States had later begun the construction of Fort Chamblée at Rouse's Point, in New York, but in 1818 a joint commission had made a new survey of this 45° parallel, when it was found that the correct line was far enough south to throw



State, June, 1840, to March, 1841 (*Senate Doc. 274, 29th Cong., 1st sess.*). Cf. also messages of Van Buren and a report of James Buchanan. *Senate Doc., nos. 107, 382, 26th Cong., 1st sess.*; *House Doc. 134*; the action on a military road in *Ho. Doc., no. 66*, and *Sen. Doc., no. 84, 27th Cong., 2d sess.*; and a *Hist. of the negotiations in reference to the eastern and northwestern boundary of the United States in 1841* (N. Y., 1841). Cf., on the British government publications on the boundary, 1838–1843, Sabin, xiii. no. 55,538.

[1] Bouchette (*Brit. Dominions in N. Amer.*, i. 420) had proposed in 1832 a "conciliatory compromise," with an agreement on the line of the St. John, west of the due north line.

[2] The treaty, with the message to Congress conveying it, is, with its accompanying papers, in *U. S. Docs., Ho. of Rep. Ex. Doc., no. 2, 27th Cong., 3d sess.* The treaty is also in Webster's *Works*, vi. 356, with the official correspondence preceding it (p. 270). The speech in which Webster vindicated the treaty in 1846 is in his *Works*, v. 78. Cf. Everett's introd. to Webster's *Diplom. and Official Papers* (1848) and chap. 8 of his life of Webster in *Webster's Works*, i. p. cxix.

[3] Cf. Bouchette's *British Dominions in N. America*,

* Sketched from the *Carte des Possessions Angloises et Françoises du Continent de l'Amérique Septentrionale, par I. Palairet, Londres, 1759. Sold by I. Roque, Chorographer to his Royal Highness the Prince of Wales, London and Dublin.* The territory bounded by the Kennebec and the dotted line (- - - - -) is called "Main"; that east of the Kennebec, bounded east by the St. Croix and the due north line, and extending to the St. Lawrence, is called "Territoire de Sagadahock." The general name of all the territory west of the St. Croix and due north line is "Nouv. Angleterre," and east of it "Nouvelle Ecosse ou Acadie." A legend at the bottom of the map says: "The red line drawn from Lake Ontario to Bay Verte shows another claim of the French north of the Eng. Settlem^ts to the R. St. Lawrence." This line is marked in the sketch by dashes (— — — —). The alternative claim of the French gives to them in addition all the territory east of the Penobscot and north of the line (— — — —) from the Penobscot west.

the new fortification upon British ground. The treaty of 1783 was so far departed from in this respect that Great Britain accepted the old line as it was then understood, though it was at Rouse's Point[1] 4,326 feet north of the true 45° parallel.

A large island in dispute, in the passage between Lake Huron and Lake Superior, was given to the United States; and on the question of the water-way to the Lake of the Woods, though none without portages existed, that one starting at what was known as the Grand Portage was selected.[2] This left another passage, a few miles north, to the British, though it had been claimed by the Americans; but there was no disposition on the part of Lord Ashburton to contend for the St. Louis River, which empties near the western extremity of the lake, as the British commissioners had done after the Treaty of Ghent. The northwest corner of the Lake of the Woods had already been found to be north of the 49° parallel by 23′, 55″, and so the line was made to drop due south from that point to the prescribed parallel, and then to follow it to the Rocky Mountains.

The consideration of the treaty of 1783 then and later brought to public notice various maps, each of which has a history worth following. By the concessions of both sides in the statements which were made to the Dutch king, it was a map of North America by Mitchell, dated 1755, that was used by the commissioners of 1782–83 in making the line which they had agreed upon, and the English commissioners seem to have introduced that particular map.[3]

Jared Sparks found in the archives at Paris a letter (Dec. 6, 1782) of Franklin to Vergennes, referring to a map which the American commissioner had sent to that French minister, marked with the bounds as agreed upon;[4] and he also found among the sixty thousand maps of the same department a small (18×18 inches) map by D'Anville (1746), in which a strong red line had been drawn near the ridge in which the Penobscot and Kennebec rise, thus making a division line which more than favored the English claim; and suspecting it to be the map referred to by Franklin, he caused a copy of it to be put in Mr. Webster's hands.[5] It was used in the secret session of the Senate and with the Maine commissioners to induce a ratification of the treaty.[6] Later, when the injunction of secrecy in the debates was removed, it was made a ground of reproach against Mr. Webster, by opponents of the treaty here and in England and Canada, that he had not made a disclosure of the evidence against him by declaring his knowledge of it. It is quite certain that Webster was anxious lest the English should obtain knowledge of it, and he cautioned Everett, the American minister in England, against searching for maps "in England or elsewhere," evidently in fear that Sparks's traces could be found. It would seem that Mr. Webster and Mr. Sparks, at least, were somewhat distressed by the seeming antagonism of the map, which soon became famous as the red-line map.[7] Attempts have often since been made to argue it away, as inconsistent with Franklin's views; and Sir Francis Hincks, a few years since, published his belief that Franklin at that moment had some purpose in deceiving or misleading Vergennes, or at least he finds it easier to believe this than that Franklin could have so misunderstood the line. In the debates in the Senate, Benton and other senators clearly divined the character of the map, but without producing positive evidence that the line simply represented an old French claim for the bounds of Acadia, which, as they did not suspect, had been revived under the inspiration of Vergennes.[8] The United States government procured a considerable part of the maps which they had used in the negotiations in earlier years from Harvard College library, and these maps are now — so far as returned — in that library, bearing marks of such use. At the time they were selected, the red-line map had not been produced, and so the maps which explicitly defined the character of that red line were overlooked, and seem to have escaped notice. One of them is an English *Map of the British and French Dominions in North America by J. Palairet, improved by J. Rocque* (London, 1759). It has this red line, which intersects the territory of Maine along the highlands which divide the lower rivers of Maine from the upper waters of the St. John, just as the British claimed; but it has also this distinct engraved legend: "The red line drawn from Lake Ontario to Baye Verte shows another claim of the French north of the English settlements to the River St. Lawrence." It was in fact a line advanced by

i. 420, and his *Top. of Lower Canada*, p. 278, on the incorrectness of this survey.

[1] The territory annexed to the United States was a narrow gore, with the point at the St. Lawrence, and a width of three quarters of a mile at the Connecticut.

[2] The earliest map which I have observed, making the water-way to the Lake of the Woods the western bounds of Canada, is Palairet's *Carte des possessions angloises et françoises* (London, 1755), which made a part of the *Atlas methodique composé par l'usage du Prince d'Orange*. An attempt had been made in 1803, by a convention in which Rufus King represented the United States and Lord Hawkesbury Great Britain, to determine this northwest corner of the lake; but the award at that time had been rejected by the United States, because the purchase of Louisiana, made since the award was given, was thought to have secured new rights which could not have been considered.

[3] Sparks's *Franklin*, x. 447; *State Papers, For. Rel.*, i. 91; *Mass. Hist. Soc. Proc.*, Oct., 1886, p. 89.

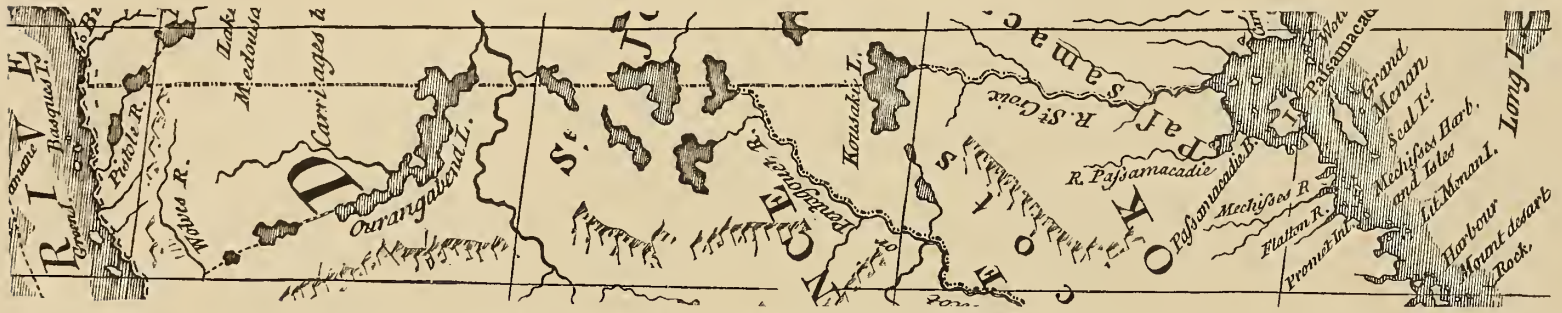
[4] *Sparks MSS.*, lxvi.

[5] *Webster's Works*, ii. 143; Sparks's letter to Webster in *Maine Hist. Doc. Coll.*, viii. 96. Cf. Sparks's letter to Buchanan about the red-line map, in which he says he unwittingly stirred up a controversy, in Curtis's *Life of Buchanan*, i. p. 505. Cf. W. C. Rives's speech (Sabin, xvii. p. 323).

[6] Benton's *Debates*, xiv. 546. Cf. *Greville Mem.* 2d p., i. 147.

[7] Louis J. Jennings, in his *Corres. of John Wilson Croker* (London, 1884, i. 395, 400, 403), says that an agent of the British government, when they learned of the Sparks map, tried to find it in the Paris archives, but could not; while he found another with a red line which gave the disputed territory to the United States. Sir Robert Peel said that they found the Sparks map (*N. Y. Hist. Doc. Proc.*, 1843, p 71).

[8] *Maine Hist. Doc. Coll.*, viii. 98.



PART OF MITCHELL'S MAP, SECOND EDITION, 1755.*

the French as a claim after the treaty of Aix-la-Chapelle. The other, a French map, *Carte des Possessions Angloises et Françoises*, is dated in 1755. I find the identical line also on a D'Anville map of 1746, — the same date as that lesser map of D'Anville found by Sparks, — but without the explanatory legend, and it was retained in the edition of D'Anville published in Venice, *Carte générale du Canada*, etc., in 1776, but still without the legend.

Mr. Lemon is said to have found in the Record Office in London, in 1841, a Mitchell map of 1755, in which a faint red line supported the British claim, and it was at the time assumed to be the Oswald map. Fitzmaurice argues that the assumption was without proof.[1] Cf. *Greville Memoirs*, part ii., vol. i. p. 102.

The incontestable Oswald map (Mitchell's) was, however, in existence in the British Museum at the time, among the collections given to the nation by George the Third, and even attested by that monarch with his own hand, where he had written along the line of the agreed boundary in several places, "Boundary as described by Mr. Oswald," including the changes which had been introduced by Strachey;[2] and this boundary was exactly in accordance with the American demands. If this map was not known to the British government at the time of the mission of Lord Ashburton, there was a convenient ignorance enjoyed by the heads of the administration which was not shared by the under officers, for it was well known, as Lord Brougham acknowledged, in Lord Melbourne's time, when it was removed from the British Museum to the Foreign Office, and persons and traditions are easily transmissible in such offices. Featherstonhaugh would seem to have known it at the time he was working up the claim for the lower highlands. Ashburton protested that he was kept in ignorance of it, and Peel and Aberdeen professed no knowledge of it to Mr. Everett (*Speech on the Dedication of the Webster statue in Boston*) till after the treaty was signed. When the treaty was assailed in Parliament, the ministry of Peel brought this map forward to offset the clamor against the treaty.[3]

[1] *Life of Shelburne*, iii. 324.

[2] Fitzmaurice's *Shelburne*, iii. 324.

[3] Speech of Brougham, cited in Benton's *Thirty Years' View*, ii. 422. The map was subsequently shown to Edw. Everett, then minister in London (his letter, March 31, 1843, in Benton, *Thirty Years' View*, ii. 671).

Cf. Henry Brougham, *Speech on the Ashburton Treaty* (London, 1843); H. J. Temple, *Speech on the Treaty of Washington* (London, 1843).

In an article on the N. E. boundary in the *Boston Monthly Mag.* (1826), ed. by Samuel L. Knapp, the writer says, referring to Mitchell's map: "We have ourselves seen the very copy of the map which was used at the conference at Paris, with the lines in pencil yet hardly obliterated" (pp. 573, 574). There were apparently several copies of Mitchell's map marked, and it is not clear which of the copies is here referred to; but it was probably the copy which Egbert Benson in 1796, in his statement regarding the decision upon the St. Croix River, mentions as being then in the Department of State. It has since apparently disappeared, for the two copies (writes Mr. Theodore F. Dwight to me) of Mitchell's map now in that office show no such marks.

* The edition used by the commissioners was the second. The two editions of Mitchell's map of 1755 are given in Cavendish's *Debates in the House of Commons in 1774 on the Quebec Bill* (London, 1839). The first edition, published early in 1755, was withdrawn, and the second, with "numerous important changes," was issued with the same date. The first edition was reissued at Paris in 1756 by Le Rouge. There is a reproduction of the second edition in Gallatin's *Right of the U. S. to the N. E. Boundary* (N. Y., 1840), with the lines of the rival claims added; and a section is given in *Mass. Documents, Senate No. 67* (Mar., 1838). Mitchell's map was in part based on that of Bellin in Charlevoix (1744).

Most of the documentary evidences and discussions have already been referred to in the preceding pages; but some of the principal sources and general examinations of the subject may be recapitulated here. B. P. Poore's *Descriptive Catalogue of Govt. Publications*, and the index (under "N. E. Boundary") to the U. S. docs. in the *Boston Public Library*, *Bates Hall Catalogue* (vol. i. p. 832), will guide to the extensive series of American official papers, and the discussions in Congress can be gleaned from Benton's *Debates* (vols. viii., x., xii., xiii., index under "N. E. Boundary," and in vol. xiv. pp. 38, 42, 103, with the debates in secret session of the Senate, p. 530).[1]

On the British side the principal blue books have already been mentioned; but surveys of the negotiation are given in A. Stuart's *Succinct account of the treaties and negotiations between Great Britain and the United States of America, relating to the boundary between the British possessions of Lower Canada and New Brunswick, in North America, and the United States of America* (London, 1838?).

A violent Canadian view is in W. F. Coffin's "How treaty-making unmade Canada," in the *Canadian Monthly Mag.*, 1876, and in his *Quirks of Diplomacy* (Montreal, 1874). The same ground, but more moderately expressed, is taken in J. C. Dent's *Last Forty Years of Canada* (Toronto, 1881), ch. 10, "Ashburton Treaty." Sir Francis Hincks published at Montreal, in 1885, a calm exposition of the case, favoring the American side, *The boundaries formerly in dispute between Great Britain and the United States*, which is almost the only departure from the urgent pro-Anglican views which have prevailed among the tract-writing Canadians. He quotes an opinion of Sir Travers Twiss that the territory assigned to Great Britain in 1842 did not lie within the legal limits of either New Brunswick or Canada.

The subject was a fruitful source for the higher organs of public opinion during the progress of negotiations, and some of the writers, on the American side at least, were of distinguished character.[2]

C. Maps of North America, 1763–1783. — It may be interesting to note what the maps were which had been published during this interval, and upon which the commissioners in 1782–83 might have depended, more or less, in their study of the geography of the continent. Some maps will be included which indicate the development of the geography of the country under the operations of the armies.

The definition of the territorial limits of the crown of England as fixed by the Treaty of Paris in 1763, and the subdivisions of the newly acquired territory as determined by the royal proclamation of Oct. 7, 1763, — is the beginning of the cartography which the results of the American Revolution so effectually changed.[3] The leading English general atlas at this time, with American maps, was Thomas Kitchin's *General Atlas*, usually dated 1780, and commonly containing 35 maps in 62 copper-plates which were increased to 74 maps in 108 plates in his *New Universal Atlas* of 1799.[4] North America was mainly delineated from the D'Anville and Pownall maps.

[1] Condensed narratives of the course of the negotiations on the American side, apart from the official statements, will be found in Caleb Cushing's *Letters to Gov. Everett of Mass.* (1837), in Webster's speech (1846) in *Vindication of the Treaty of 1842*, (cf. also Webster's *Works*, i. pp. cxxi-cxxix,) and in a *History of the negotiations in reference to the East and Northeast boundaries of the United States* (1783-1841), New York, 1841.

[2] Cf. Sparks in *No. Amer. Rev.*, lvi. 542; J. G. Palfrey in *Ibid.* liii. 439; C. F. Adams in *Ibid.* lii. 424; C. S. Davies, *Ibid.* xxxiv. 514; Nathan Hale in *Ibid.* xxvi. 421; xxxiii. 262; xliii. 415; and in *Amer. Almanac*, with map, 1840, p. 85. Cf. *N. Y. Rev.*, with map, viii. 196; *Democratic Review*, v. 342; *Niles's Reg.*, xxxiv. 356; xlii. 461; *Boston Monthly*, i. 571. On the English side see *Westminster Rev.* (by C. Buller, with map), xxxiv. 202; also xxxix. 160; xl. 182; *Fraser's Mag.*, xxii. 346; xxvi. 579; xxvii. 272; *Quart. Rev.*, lxvii. 501; lxxi. 306; *Ann. Reg.* iv. 56; vi. 94; vii. 13.

[3] Among the maps defining these bounds of 1763 are: —

The British governments in North America laid down agreeable to the proclamation of Oct. 7, 1763 [London? 1765?], noted in *Brit. Mus. Maps*, 1885, col. 89.

Emanuel Bowen's *Map of North America, according to the definitive treaty at Paris, 10 Feb., 1763*, contained in Jefferys' *General Topography of North America and the West Indies* (London, 1768).

E. Bowen and J. Gibson's *Accurate map of North America . . . according to the treaty concluded at Paris, 10th Feb., 1763* (4 sheets), London, 1772, noted in the *Brit. Mus. Maps*, 1885, col. 84. E. Bowen's *Map of the British American Plantations extending from Boston in New England to Georgia, including the back settlements as far as the Mississippi* [London, 1770?], noted in *Brit. Mus. Maps*, 1885, col. 89, with other editions of Bowen and Gibson, 1775, etc.

Peter Bell's *Map of the British Dominions in North America according to the treaty of 1763*, contained in Jefferys' *History of the British Dominions in North America* (London, 1773), and given in fac-simile in Mills's *Boundaries of Ontario* (1873). The *Brit. Mus. Maps*, 1885, col. 90, notes a copy without place, dated 1772. Bell improved upon Danville, and there are maps by him, dated 1771, 1775, etc.

A new and accurate map of North America, including the British acquisitions gained by the late war, 1763, contained in John Entick's *General History of the Late War* (London, 1764). A copy without place, dated 1763, is noted in the *Brit. Mus. Maps*, 1885, col. 84.

Thomas Kitchin's *Map of North America according to the treaty of 1763*, contained in Knox's *Historical Journal of the Campaigns in North America, 1757–1760* (London, 1769). Another map by Kitchin is in Dodsley's *Annual Register*, 1763.

Thomas Jefferys' *Map of the English Colonies according to the treaty of 1763*, London, 1775.

J. Palairet's *North America with improvements by L. Delarochette*, was published in London, 1765, and his *North and South America* is in *The American Traveller*, London, 1769.

Ridge's *British Dominion in North America* is found in *The Complete History of the late War* (Dublin, 1766).

A map of the colonies in 1768 is reproduced in the *Docs. Col. Hist. N. Y.*, vol. viii. A map of the *British Empire in North America* appeared in Wynne's *History of the British Empire* in 1770.

[4] The corresponding French publication is Lattré's *Atlas Moderne*, 1778.

The leading English atlas of this period, showing America alone, was that published by Sayer and Jefferys, the maps engraved by Jefferys and dated at London, 1768, when it appeared as the *General Topography of North America and the West Indies*. It usually contains 93 maps, with title and contents, both English and French, and is the earliest form of what became known as the *Jefferys' Atlas*.[1] A part of the plates were used in *The American Atlas by the late Mr. Thomas Jefferys*, containing usually 29 folding copper-plate maps (sometimes numbered thirty), which had originally appeared between 1762 and 1776. The book often varies from this in its make-up, and has varying dates, 1775, 1776, 1778, 1782, with the imprint of Sayer and Bennett.[2] It professes to have been produced from the surveys of Major Samuel Holland, Lewis, Evans, Wm. Scull, Henry Mouzon, Lieut. Ross, I. Cook, Michael Lane, Joseph Gilbert, Gardner, Hallock, and others.[3] The corresponding French collection is the *Atlas Amériquain Septentrional, traduit des cartes levées par ordre du gouvernement Brittanique*, Paris, Le Rouge, 1778.[4]

One of the most common English maps of North America of this period is *The Map of North America, from the French of M. D'Anville, improved with the English surveys made since the peace.* It was published in London by Sayer and Bennett in 1775,[5] and is included in the *Jefferys Atlas*.[6] The best hydrographical work done on the American coast, producing maps of the first importance as respects the study of movements on the coast, was in the elaborate series of charts made under the direction of the lords commissioners of the admiralty, and first issued in 1777, by Joseph F. W. Des Barres, in two large atlas folios, as *The Atlantic Neptune*. The maps are often found separately and gathered in different groups, but the true collation is given by Rich in his *Bibliotheca Americana Nova*, under 1777.[7]

A corresponding French collection of charts is the *Neptune Americo-Septentrional*, giving the coasts and harbors between Greenland and the Gulf of Mexico, published for use of the French navy, and based upon the best French and foreign authorities. The separate sheets appeared between 1778 and 1780.[8]

What is known as the *American Military Pocket Atlas* was published in London in 1776, under the patronage of Gov. Pownall, and the maps being folded to a small compass, it was intended for use in the field. There were but six maps, including a general map of North America, others of the Northern, Middle and Southern colonies, with a special map of Lakes Champlain and George. There was presented to the New York Historical Society, in 1845,[9] a collection of "rough drafts of surveys, by Robert Erskine, F. R. S., Geographer, U. S. A., begun 1778," a hundred surveys covering the greater part of New York, western New England, New Jersey, and a part of Pennsylvania. Erskine died in 1780, and on Washington's recommendation, Simeon De Witt succeeded to his office and received these surveys, from whom they passed to his son, who gave them to the society.

As late as 1793, a London publisher collected various plates of battles and marches of the war, which had been issued at different times, and published the collection, which sometimes contains seventeen and sometimes twenty-two maps, called *Atlas of the Battles of the American Revolution* (Sabin, i. 2,309).[10]

There are two or three French maps of the seat of the American war often met with.

[1] Sabin, ix. 35,962.

[2] Rich, *Bib. Amer. Nova*, under 1778; Sabin, ix. 35,953. Robert Sayer, who died in 1794, aged 69, was a partner of Bennett from 1775 to 1780. John C. Smith, *Brit. Mez. Portraits*, i. p. liii. Thomas Jefferys died March 15, 1775, aged 76. Wm. Faden, who was his partner, succeeded to his business.

[3] There was a good deal of changing of plates and substituting of imprints at this time, and the exact relations of separate maps to combined atlases and different publishers are not always readily traced. A map often found with the imprint of Sayer and Bennett is called *Theatre of War in North America* (London, 1776, etc.).

[4] It has 26 maps. The "Amérique" follows Charlevoix, 1774; the "Amérique Septentrional" is based on Mitchell. The map of special interest is the *Théâtre de la guerre par le Sieur le Rouge, 1778*. There was an Italian edition of the English atlas, 43 maps, published at Leghorn in 1777.

[5] *Brit. Mus. Maps*, 1885, col. 84.

[6] There is also an Amsterdam edition. The Atlantic colonies are bounded westerly by the Alleghany range. The Penobscot separates New England from Nova Scotia. The western bounds of Canada recognize the Quebec Bill, and are defined by the Ohio and Mississippi rivers. There is a fac-simile in Mills's *Boundaries of Ontario*, 1873. The French reciprocally issued a map in 1780, based on the map of Evans.

Cf. the map of *North America as divided amongst the European powers*, London, 1774, and the general map in the *Political Mag.*, April, 1780. There is an enumeration of North America maps in *Brit. Mus. Maps*, 1885, col. 87.

[7] The first volume has the general title *Atlantic Neptune*, and the special title of this volume is *The Sea-Coast of Nova Scotia*. This volume contains various views of the coast and coast towns, and charts numbered to 36, but some numbers are repeated, so there are 43 in all. The second volume has, beside the "Atlantic Neptune" title, three sectional titles to as many parts, namely: —

1. *Charts of the coasts and harbors in the gulf and river of St. Lawrence, from surveys by Major Holland, 1765–1768*, giving 22 plates of charts and views.

2. *Charts of the coasts and harbors of New England from surveys by Samuel Holland, Geo. Sproule, Charles Blascowitz, James Grant, and Thomas Wheeler*, giving 22 charts and 20 views.

3. *Charts of several harbors and divers parts of the coast of North America, from New York, southwestwards to the gulf of Mexico* (1781), showing 16 charts and views.

Quaritch, 1885, priced the two volumes, dated 1780, with 138 charts, at £12. Cf. Sabin, v. 19,685; Morgan, *Bibl. Canadensis*, 103. The *North American Pilot*, London, 1775, was a much inferior work. What was called *Jefferys' Western Neptune* was published in London in 1778. Le Rouge's *Pilote Américain Septentrional*, translated from the English, appeared in 1776, with 60 sheets.

[8] Rich, *Bib. Amer. Nova*, under 1780, p. 290.

[9] *Proc.*, 1845, p. 38.

[10] Cf. H. B. Carrington's *Battle maps and charts of the American Revolution, with explanatory notes* (New York, etc. [1881].)

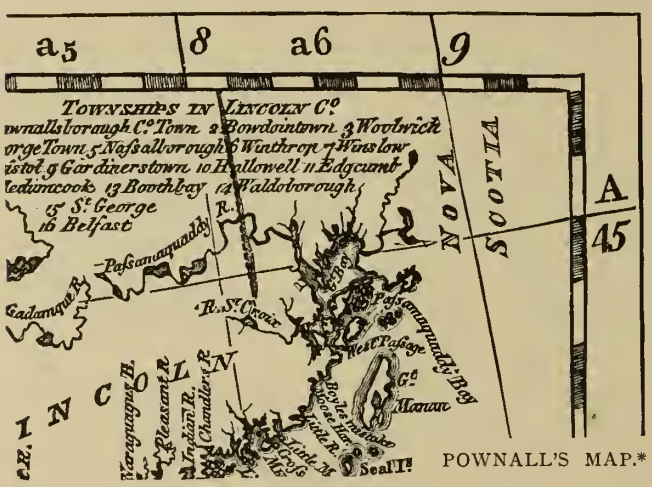
1. *Carte du théâtre de la guerre entre les Anglais et les Américains, dressée d'apres les cartes anglaises les plus modernes par Biron de la Tour*, Paris, 1777. There may go with this map another *Carte général des Colonies angloises dans l'Amérique par M. Phelippeaux d'après les manuscrits de plusieurs auteurs angloises, pour servir de suite un théâtre de la guerre par Biron de la Tour*, Coutances, 1778.

2. *Carte de l'Amérique Septentrionale, pour servir à l'intelligence de la guerre entre les Anglais et les Insurgents, par le Ch^r. de Beaurain*, Paris, 1777. Louisiana embraces all the territory west of the Mississippi. The northern bounds of Virginia beyond Pennsylvania continue the Mason and Dixon line westward. The country north of this is marked "Pays sous la protection du roi d'Angleterre." A German edition is in the *Geog. Belustigungen*, which also contains another map, based on Bonne's map of America, Paris, 1773, also included in Raynal's *Histoire Philosophique*, Genève, 1775. Cf. the *Allgemeine Charte von Nord Amerika als den Sitz des Kriegs* (Hamburg, 1776).

3. *Carte du théâtre de la guerre présente en Amérique, dressée par C. Denis*, 1782.

The most elaborate general war maps on either side are the following: —

1. A map showing the country from Cape Ann and the Sorel River in the north to the Chesapeake in the south, called *Carte du théâtre de la guerre pendant les années 1775–1778, d'après le dessein original qui a été présenté au roi, fait par le Sieur Capitain du Chesnoy, aide-de-camp de Lafayette.* It marks the camps, and shows the battles, from March 15, 1775 to 1779, and has a corner table of events. In speaking of the maps which he gives in his *Washington*, Sparks says: "I have been specially aided by a series of manuscript drawings in the possession of General Lafayette, which were taken by a French engineer attached to his staff, and which were executed with scientific accuracy and beauty. Some of the old drawings published at the time in London, from imperfect sketches and surveys, I have been enabled to correct by the documents to which I have had access and by actual inspection, having personally visited nearly all the localities." [1]



2. There is in the library of Congress a very large MS. map, beautifully executed in colors, giving the country between the Head of Elk and the Highlands of the Hudson, with the military movements and engagements within that area, and seemingly made by a union of the Hessian and English surveys. It has a marginal synopsis of the events, which are chronicled upon it, and is entitled: *Plan général des operations de l'armée Britannique contre les Rebelles dans l'Amérique depuis l'arrivée des Troupes Hessoises le 12 du mois d'aoust 1776, jusqu'au la fin de l'année 1779.* Various sections of this map are given in this History.

The official maps of Samuel Holland, the surveyor-general [2] of the northern district in America, are important: —

1. *A general map of the northern British colonies in America which comprehends Quebec, Newfoundland, Nova Scotia, New-England and New York. From the surveys of Cook & Carver, regulated by Saml. Holland in 1765, 1773, & 1774*, London, 1776.[3]

2. *A general map of the middle British colonies, in America, containing Virginia, part of N. Eng., also parts of Quebec improved from surveys made after the late war, and corr. from Pownall's map, 1776.* London, 1776. Cf. reproductions in *Penna. Archives*, 2d ser. vol. ii., and the Stevens-Whitehead *New Jersey Index*, p. 483. Pownall's *Topographical Description* (London, 1776) accompanied this map. See Vol. V., index, *sub* Evans, Lewis. Among the maps published by Faden is *The British Colonies in North America* 1777. The province of Quebec is bounded below the lakes by a line running from Canahogue Bay on Lake Erie to the Ohio, thence by that river to the Mississippi. Faden also published the map in Carver's *Travels.*

[1] Sparks's *Washington*, vol. ii., *introd.*

[2] On Holland's surveys see *N. Jersey Archives*, x. 578, 599.

[3] A map based on Carver's surveys was also compiled by Samuel Dunn, and published in 1776. A map of North America, by Dunn, was also published in 1774.

* An extract from Pownall's additions to Evans's map, 1776, showing the St. Croix as the river debouching into the S. W. corner of Passamaquoddy Bay, the modern Cobscook River. There is a reproduction of it in Gallatin, who also gives a map from the *American Military Atlas* (London, 1776), showing the due north line from the Cobscook River.

THE LOYALISTS AND THEIR FORTUNES.

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THE measures which made the thirteen American colonies independent of Great Britain at once made them dependent on each other. It was by concert that they resolved upon independence. Their success required union, and, if perfect harmony in purpose was not to be looked for, covert or direct opposition would call for wise and resolute dealing. Internal foes might deal more mischief than could be effected by foreign armies.[1] The paramount object of those who had precipitated the rebellion was to secure to the edicts of the Congress the sanction of the thirteen colonies. This great end was early accomplished. We cannot exaggerate the influence of this joint action of the colonies, speaking with one voice and avowing one purpose. No amount of local or unorganized dissatisfaction could have been so obstructive as the refusal of even one single colony to support a general congress. But after this accord was secured it then became a matter of the most serious importance to ascertain the relative proportion of those in each of the colonies who were ready to sustain independence, and of those whose resolve was not as yet determined in its favor, or who would resist it with various degrees of hostility; and this engaged the sharp scrutiny of the patriot leaders. The new relations of dependence on each other among the colonies were marked by two very striking and contrasted results. They brought communities widely severed — heretofore strangers, indifferent, and jealous of each other — into acquaintance and mutual helpfulness. At the same time they opened alienations and feuds, and all the harrowing attendants of civil war between former friends and neighbors, and between even members of the same family.

The terms Tories, Loyalists, Refugees, are burdened with a piteous record of wrongs and sufferings. It has not been found easy or satisfactory for even the most candid historian to leave the facts and arguments of the conflict impartially adjusted. Insult, confiscation of property, and exile were the penalties of those who bore these titles. Reasonable and grateful, akin to what is best in human nature, is our relenting over the tale of their miseries. Remembering that the most bitter words of Washington that have come to us are those which express his scorn of Tories, we must at least look to find some plausible, if not justifying, ground for the patriot party. Among those most frank and fearless in the avowal of loyalty, and who suffered the severest penalties, were men of the noblest character and of the highest position. So, also, bearing the same odious title, were men of the most despicable nature, self-seeking and unprincipled, ready for any act of evil. And between these were men of every grade of respectability, and of every shade of moral meanness.

Under the title, assumed by themselves, as "friends of government," and under another, given by those to whom they were odious, as "enemies of the liberties of their country," a class of men came early to be recognized as likely to play an important part in the impending quarrel. These men soon came to be called Tories. They were found to embrace both covert and open enemies of the patriot cause. The most prominent and outspoken among them, of course, were place-men and crown officials. These were largely independent of popular support and sympathy. There were enough of them in any centre of trade or business, and they had sufficient courage, not to say assurance, to make a strong fellowship in their social and business intercourse, their hospitalities and convivialities, to keep each other in countenance, in tavern groups, about the marts, and the lobbies of the legislatures. It was this class of Tories that were especially offensive to the patriot party. Much of their obstructive influence was known to be exercised insidiously. From them it was with good reasons believed that ill reports and defamatory misrepresentations of the plans of the "friends of liberty" were sent to government, with promptings of measures of repression, with suggestions for the arrest of embryo traitors, and for establishing a force of British regulars in the colonies. Till they had been intimidated by threats and rough handling, this class of Tories were free in expressing with effrontery their contempt of the leading patriots as demagogues and mischief-plotters. Irritating epithets passed very freely between these two parties. These place-men, of course, fortified the position which they took, and the avowals which they made, by the obligations which they had assumed in their oaths of office, while the pledges of protection

[1] [We can see how the troops early felt this in such petitions as that of Col. Jonathan Ward's regiment against the harboring of secret enemies, made during the siege of Boston, Sept. 27, 1775 (*N. E. Hist. and Geneal. Reg.*, 1868, p. 10). — ED.]

given them by the government stiffened their loyalty and exasperated against them the patriots, who knew that a fulfilment of the pledge would be at their cost.

Another class of original Tories, composed both of those born in the colonies and of resident Englishmen, were the merchants. Not all the merchants and large traders, however, were on the side of government. A considerable number were, in fact, smugglers, finding it quite profitable to carry on an illicit business, which was to a degree winked at, while for certain purposes it was to their account to yield an outward regard to the customs laws. But as these laws, with more vigorous measures for enforcing them, became more stringent, these smuggling traders found their natural place among the liberty men. The mercantile class of the greatest social weight were drawn into open or covert sympathy with government. They saw that their profitable business was threatened by disorder. They were irritated by the early tentative efforts to prevent the importation of British goods, and by being compelled under threats to sign an agreement to that effect. They found that a keen inquisition was kept over their affairs, while their vessels, books, and warehouses were exposed to search. These two classes of Tories, the placemen and the obstinate merchants, were the first to concentrate their opposition against the patriots. The dependants upon, and the abettors of, these chief enemies of popular measures formed a miscellaneous company of spies and workers of mischief, which, as a whole, represented the power of Toryism in its foreign elements here. It is not a harsh judgment to affirm of these groups of loyalists that they draw the least on our pity. In embarrassing the popular cause, they had selfish interests to serve. Something outside of their own native or adopted country secured their chief regard. They were in the pay, if not under the bribes, of a rival and oppressive authority. They were, in fact, an advanced body of the armed force sent over to crush the liberties of the country. They invited and aided its interposition. They were in correspondence and league with the ministry, and were substantially identified with its purposes. Where they had the power of patronage they made it felt in acts of partiality and oppression. They lavished their contempt upon humble patriots, and their threats upon those of more consequence. Among these classes of Tories were some who combined to support local ministerial journals, and several of them used their own pens to travesty or controvert the writings of their adversaries. These newspaper fusillades were for the most part anonymous on both sides, and offered a free field alike for abuse and argument.[1]

Quite another class of Tories there were, disheartening and obstructive indeed to the patriot cause, but men of a nobler spirit, who claim a respectful, though it may not be a fully sympathetic, notice. It is safe to affirm that among such loyalists were men eminent in private and public virtue, ardent in their patriotism, and thoroughly sincere in the position to which they committed themselves. They differed from their contemporaries of equal virtue, sincerity, and intelligence on the patriot side, in that single quality of loyalty. Almost without an exception they felt and were ready to censure, and even to resist, the oppressive measures of the mother country. They believed that calm but earnest remonstrance would right all wrongs; that truculency, passion, and defiance would result either in humiliating subjection or in anarchy. They loved their mother-country, were proud of their relation to it, felt secure under its protection; and their attachment to it gave assurance of their confidence in its just intents. They could not persuade themselves that the colonies could possibly triumph in a conflict with her. Their loyalty expressed their dread of anarchy and their reverence for constitutional order.[2]

[1] [Sabine says that at the outset there were seven or eight newspapers on the loyal side and twenty-three against it, though of these last five went over later to the support of government. The most conspicuous Tory editor was James Rivington, of the New York *Gazette* or *Gazetteer*, and there are portraits of him in Moore's *Diary of the Amer. Rev.*, ii. 448, and Lossing's *Field-Book*, ii. 797. The loyalist graduates of Harvard College are considered in the *Amer. Quart. Reg.*, xiii. 403; xiv. 167. The principal Tory writers of Massachusetts were Joseph Green, Samuel Waterhouse, Lieut.-Gov. Oliver, Jonathan Sewall, Daniel Leonard, and John Mein (*Letters of Sagitarius*), who were hardly a match for their patriot opponents, Samuel Adams, John Adams, James Otis, Oxenbridge Thacher, Chas. Chauncy, Samuel Cooper, and Josiah Quincy, to say nothing of Mercy Warren's *Adulators* and *The Group*, with their satirical purpose. In New York the opposite sides were espoused by Samuel Chandler, John Vardill, and Isaac Wilkins, against the youthful Alexander Hamilton. Daniel Delany and Charles Carroll represented the rival interests in Maryland. Further south, Sabine could find no conspicuous writers on the side of government to offset the influence of Jefferson, Richard Bland, and the Lees, of Virginia. A collection of the *Loyalist Poetry of the Revolution* (Philad., 857) was edited by Winthrop Sargent. Sargent also edited *The Loyal Verses of Joseph Stansbury and Doctor Jonathan Odell, relating to the Amer. Revolution* (Albany, 1860). Of Odell there is an account and portrait in G. M. Hill's *Hist. of the Church in Burlington, New Jersey*. — Ed.]

[2] Thomas Paine, in his *Common Sense*, classified men of Tory proclivities — first designated *Reconciliationists*, and afterwards as *Obstructionists* — in the following terms, viz.: "Interested men, who are not to be

Of the many critical periods preceding independence, the most dangerous was that which attended the breaking down of all the constitutional methods of government and the assumption of such substitutes as were devised by the popular will. Our patriot statesmen well knew,

trusted; weak men, who *cannot* see; prejudiced men, who *will not* see; and a certain set of moderate men, who think better of the European world than it deserves; and this last class, by an ill-judged deliberation, will be the cause of more calamities to this continent than all the other three."

[There are widely varying estimates of the proportion of the loyalists to the patriots at the beginning and during the progress of the war. The numbers of either side were far from constant, changing with the alternation of hopes and fears, and were widely different in the several colonies. A well-informed and judicious recent English writer (Lecky's *England in the Eighteenth Century*, ii. p. 443) says: "The American Revolution, like most others, was the work of an energetic minority, who succeeded in committing an undecided and fluctuating majority to courses for which they had little love, and leading them step by step to a position from which it was impossible to recede." The same writer (vol. iv. 153) again says: "It is probably below the truth to say that a full half of the more honorable and respected Americans were either openly or secretly hostile to the Revolution." Curwen is constantly complaining of the "meaner sort" coming to the top in position and wealth as the war went on. John Adams was of the opinion that only about a third of the people were averse to the Revolution (*Works*, x. 63, 87, 110), but in 1780, in his letters to Calkoen, written to secure Dutch sympathy, he flatly affirms that the Tories constituted not a twentieth of the population, which may mean that he thought the French alliance and the progress of the war had diminished at that time the body of opponents. There is said to have been about 30,000 sent into exile. *A List of those tories, who took part with Great Britain in the revolutionary war and were attainted of high treason . . . to which is prefixed the legal opinions of Attorneys-general McKean and Dallas* (Philad., 1800), was privately reprinted in New York in 1865, as "Commonly called the Black List." (Cf. Jones's *N. Y. during the Rev.*, ii. *note* 36.)

Sabine says that the loyalist writers almost always claimed that their sympathizers were in the majority; but in his own judgment they fell short of a majority, though making a large minority. Sabine says that, of the 2,000 who left Massachusetts, 310 were banished. Eleven hundred went off in March, 1776. The official enumeration gives, for the force which left with Howe, seventy-eight vessels, 8,506 soldiers, 924 registered Tories, and 200 not registered (*Sparks MSS.*, no. lviii.). There are lists of Massachusetts Tories in *Mass. Hist. Soc. Proc.*, Oct., 1870, p. 392; Feb., 1871, pp. 43, 45; Dec., 1880, p. 266; March, 1886, p. 234; Curwen, pp. 465, 485; *Mem. Hist. Boston*, ii. 563; iii. 175.

There is among the *Gardiner Papers*, in the Mass. Hist. Soc. (*Proc.*, 2d ser., iii. p. 2, June, 1886), a significant letter, dated May 9, 1776, written by Sylvester Gardiner, which shows the sorrowful experience of these Tory outcasts. A vessel, the "Elizabeth," leaving Boston with the fleet, was captured, but Congress, finding her to be loaded with the effects of loyalists, released her (*Journals*, i. 515). A list of returned refugees naturalized in Massachusetts as "aliens," from 1782 to 1794, is given in the *Mass. Hist. Soc. Proc.*, iv. 359. The local histories of Massachusetts add to our knowledge. For those of Salem, see also *N. E. Hist. and Geneal. Reg.*, 1872, p. 431; for those of Lancaster, see *Bay State Monthly*, i. 377. Israel Williams, and many of the conspicuous people of Central and Western Massachusetts, were Tories. (Cf. *Israel Williams MSS.*, in Mass. Hist. Soc.)

There are in the *Mass. Archives* (MSS.) two volumes (nos. cliv., clv.) devoted to the Royalists, which are made up of lists of suspected persons, accounts of absentees' estates, and of sequestered goods. The banishment or expulsion act of Mass. (1778) is given in Curwen (p. 479), and it is occasionally found in the original broadside (*Letters and Papers*, 1777–1780, in Mass. Hist. Soc.). It is, of course, in the *Laws*, etc. The Confiscation Act of 1779 is also given in Curwen (p. 475), and in *Mass. Senate Doc., 1870, no. 187*, p. 13. The Mass. legislature in 1784 asserted its right to expel aliens, if the interests of its confiscation act demanded it. The legislation in Massachusetts on the loyalists can be traced in Goodell's *Provincial Laws*, vol. v. (index *sub* Treason, Tories, etc.). On the neutrality of Nantucket, see *N. E. Hist. and Geneal. Reg.*, July, 1874.

There are various papers respecting the Tories of New Hampshire in the *N. H. Prov. Papers*, vols. vii. and viii. There are papers concerning the Rhode Island loyalists in *Narragansett Hist. Reg.*, iii. 52, 132, 202, 263; iv. 77; on those of Newport in particular in *R. I. Hist. Soc. Proc.*, 1874–75. p. 48. No. 13 of the *R. I. Hist. Tracts* is the *Diary of Thomas Vernon, a loyalist banished by the R. I. general assembly in 1776, with note by S. S. Rider* (Providence, 1881), and *Reminiscences of Thomas Vernon, an Amer. Loyalist*, was privately printed at New York in 1880.

In Vermont, towards the end of the war, the situation became anomalous. Her long pending controversy with New York (see Vol. V., p. 178) had assumed a new and dangerous aspect in 1780. The delegates of New York drew the attention of Congress in 1779 to the act of the people of the New Hampshire Grants in setting up a government of their own in 1777. Congress offered mediation and then dallied, and the States were for a long time divided upon the question of recognizing the territory as a State. The opposition came from New York naturally, but that State was supported by Virginia and the other Southern States for two principal reasons. First, that a new State at the North would disturb the balance of power between the sections; and, second, that a recognition of the right of dependencies to establish new autonomies was a dangerous precedent for States which had territorial claims at the Northwest and towards the Mississippi. The refusal

and, except in such a crisis as they had to meet, would accord with, the principle thus clearly defined by Locke: "The legislature is the supreme power of the commonwealth, and no edict of anybody else, in what form soever conceived, or by what power soever backed, can have the

of Congress to welcome the new State was a cause of estrangement which the British government hoped to use in efforts to induce a return of the *Vermontese*, as the fashion of speech then went, to their allegiance. With this end in view, Beverley Robinson, from near headquarters in New York, addressed a letter to Ethan Allen in March, 1780. No answer was returned, and Robinson, in February, 1781, repeated the letter, but added to his packet another, in which more explicit promises were made. Allen, with the cognizance of Chittenden, the governor of Vermont, sent these epistles to Congress, with a letter calculated to show that, in case of the persistent refusal of Congress to receive the new State, there was a resort which could, if necessary, be accepted. The letter was intercepted by the British, and it has been printed by B. F. Stevens from a copy in the Public Record Office, with the enclosures, from copies in the Haldimand Papers. Sparks made copies (*Sparks MSS.*, no. lii. vol. 2), and gives them in his *Life of Ethan Allen*. Already, the previous year, steps had been taken looking to intercourse of some sort with the British in Canada, a knowledge of which was confined, and continued to be confined, to a few of the leading persons in Vermont. There was threatened at the time a formidable incursion from Canada (F. B. Hough's *Northern Invasion*), and it has been thought that it was a diversion to assist the development of Arnold's plot on the Hudson. There was no adequate means of meeting that invasion in Vermont, and, if we accept the explanation of the Vermont historians, a scheme was now entered upon in Vermont, which involved the protection of their frontiers by an "artful policy," as they call it, as safer than a hazardous resort to arms, — by negotiations in fact conducted in bad faith. On the pretext of negotiating an exchange of prisoners, Ira Allen, a brother of Ethan, met a British representative at Isle-aux-Noix, and, having arranged an exchange, the question of renewing British allegiance was broached. The conferences then, and subsequently by letter, seem to have been managed adroitly by the Vermont agents, so that from the position at first taken, of desiring to treat for neutrality only, with the reservation of joining the winning side in the war, as the events might fall out, they gradually, as they found the British importunities pushed to the verge of ending the truce, advanced in their position till at last a plan of reconciliation and submission was agreed upon. It does not seem that during all this negotiation any considerable number of the people of Vermont were taken into the leaders' confidence, and the repeated excuse for dallying, which the leaders offered to the British authorities, was that they had not yet sufficiently brought the people up to an appreciation of the necessity of such a step. Finally, just as procrastination could not be longer delayed, the leaders had acceded to the British demand of a proclamation of their agreement, when the news of Yorktown caused the retreat of the British from Ticonderoga, and the crisis was passed, of apprehension from invasion, which for three years, it is claimed, this method of prevarication and delay had prevented. The Vermont managers were careful not to leave on record very significant traces of their intercourse and practices with the British authorities, though the public utterances of their meetings, the votes of their legislature, and their communications to Congress (cf. William Slade's *Vermont State Papers*) show that there was no hesitancy in avowing that renewed allegiance to Great Britain was preferable in their view to dependence on New York, and that they felt at liberty, if need be, at any time to covenant with the British for peace. It may be that such expressions were used more for coercing Congress than for luring the British, though they doubtless had the latter effect. The more definite expression of their traitorous — if they be so called — views we get from British records. The Beverley Robinson letters show that the British dared at least to make the trial in the beginning; and a letter of Feb. 7, 1781, intercepted by the French, written by Germain to Clinton, indicates that some definite steps had been taken, or at least were thought by the government in London to have been taken. This letter seems to have had its influence in inducing Congress to receive Vermont into the Union, with bounds much as they are now. A letter of Germain to Clinton of May 2d shows that it was thought that Ethan Allen was moving under Haldimand's direction; though a spy of Schuyler's, sent to watch Allen, could discover no signs of it. The aversion of Congress had induced sympathetic leanings towards the new State throughout some of the towns east of the Connecticut River, and similar feelings pervaded others as far west as the Hudson, and above its headwaters. Vermont, ambitious to present a show of greater importance, at one time annexed them to her territory. It was these annexations from New Hampshire and New York which Congress now required her to renounce as the price of her admission to the Union. At a later day, when, largely through the influence of Washington, she had been induced to conform her bounds to these requirements of Congress, that body forgot its promise, and again rejected her appeal. These tergiversations of Congress were not inducive of steadfast patriotism in the new State.

One might erroneously judge, from the recent communications of a "Curious chapter in Vermont history," by a Canadian, J. L. Payne, in the *Magazine of American History* (Jan., 1887, p. 29), and by "A Leaf from the Green Mountains," printed by B. Fernow in the *Penna. Magazine of History* (July, 1887, p. 165), that the essential facts in the case had not before been made known. The principal sources of our information are not new ones. They are in vols. xviii., xix., and xx. of the Quebec series of papers in the Public Record Office in London; in the Carleton or British Headquarters' papers, in the Royal Institution (copies in the *Sparks MSS.*, nos. lvi., lxx.); and in the Haldimand papers in the British Museum. These last contain General Haldimand's correspondence relating to Vermont, 1780–1785 (no. 21,835); Gov. Chittenden's letters (nos.

force and obligation of a law, which has not its sanction from the legislature which the public has chosen and appointed; and no obedience is due, but ultimately to the supreme authority, which is the legislature." But what was the alternative when there was no legislature,

21,835, 21,837); Ethan and Ira Allen's letters (same nos.); the reports of Capt. Justus Sherwood, the British emissary who conferred with Allen (nos. 21,787, 21,789, 21,797, 21,798, 21,821, 21,822, 21,835 to 21,842). These Haldimand papers are calendared in Brymner's *Dominion Archives Reports* (1882, pp. 8–10; 1885, p. 361). The most important papers are not, however, in the Haldimand Papers, and the selection made from them in the *Vermont Hist. Soc. Collection*, vol. ii., is not full enough. Sparks at an early day had copied many of these papers (*Sparks MSS.*, xxxii.).

The final agreement, which was saved publication by the surrender at Yorktown, was sent to Sir Henry Clinton, in New York, for confirmation, and Jones (*N. Y. during the Rev.*, ii. 210, 212) says that Clinton referred the question of his power to confirm it to the loyalist Chief Justice Smith. Jones also, in his cynical way, alleges that Smith's decision of the necessity of the approval of Parliament was influenced by the fact that many of Smith's relatives on the patriot side would be injured in property by the grants which they held in Vermont, should New York be debarred the chance of recovering jurisdiction. Jones further intimates that the plan was sent to Gov. Geo. Clinton, through Smith's connivance; and De Lancey, Jones's editor, connects Governor Clinton's assembling of his legislature, in the early part of 1782, with his possession of this secret (*Ibid.* ii. 472). Gov. Clinton, in January, 1782, had thought it might be necessary to repress Vermont by arms (Sparks, *Corresp. of the Rev.*, iv. 464). The entries made in Sir Henry Clinton's secret record books were first printed in the *Mag. of Amer. Hist.*, x. 409, 505.

The Vermont writers have all chosen to incur the charge of bad faith in negotiations, rather than acknowledge their founders to have pursued a treasonable correspondence. Cf. the histories of Vermont by Ira Allen, Williams, and Thompson, — the last a good condensed sketch. Documentary proofs are given in William Slade's *Vermont State Papers*, *Vermont Hist. Coll.*, vols. i. and ii.; *N. H. State Papers*, vol. x. The course of events in Congress is sketched in Rives's *Madison*, i. 465. Cf. also Gay, *Pop. Hist. U. S.*, iv. 79–83; *Hist. Mag.*, vi. 278, etc. An attempt is made in the same way to save the reputation of Rutledge, in South Carolina, by claiming that his offers of neutrality in 1778 were to save his State from pillage. (See Vol. VI., p. 521.)

In Connecticut the Tories were probably more numerous than in any other New England colony, very likely because of its nearness to New York. As early as November, 1775, some Connecticut marauders, under Isaac Sears, raided into Westchester, and destroyed Rivingston's office in New York (Dawson's *Westchester*, 128, 131). It was early common to confine captured Tories in Connecticut, and the *Trumbull MSS.* (Mass. Hist. Soc.) contain many papers on this point. There was in Simsbury an old copper mine whose cavities were converted into a prison, which was used from 1773 to 1827. Here many Tories were kept in restraint. A book on this mine and the use thus made of it, *The Newgate of Connecticut*, by Richard H. Phelps, was issued at Hartford in 1844, at Albany in 1860, and again at Hartford in 1876 (Sabine, xiv. 61,389–90). Cf. an illustrated paper by N. H. Egleston in the *Mag. of Amer. Hist.*, April, 1886. It is also to be said that Connecticut was the field of the then undiscovered treacheries of two of her prominent apparent patriots. Sir Henry Clinton's Secret Journal, as recently published (*Mag. of Amer. Hist.*, x. 416, 500, 503; xi. 64, 254, 348; xii. 163, 164, 165), shows how a Connecticut legislator, William Heron, of Redding, was in communication with the British headquarters, sending information of the American movements, and that Gen. Samuel H. Parsons was in league with him, and how the whaleboat commissions issued by Gov. Trumbull were used to cover their methods of transmission. It is fair, however, to say that evidence confirming Clinton's Journal has not yet been found.

The Tories' chief stronghold, however, was in New York (Sabine and Sparks's *Gouv. Morris*, i. 37), and that province, with New Jersey and Pennsylvania, furnished the larger part of the armed bodies of Royalists. — Ed.] The British army held possession of the city from 1776 to 1783. During this period, by far the larger number of the patriots, either from necessity or choice, had left it, abandoning their homes, goods, and business, leaving their affairs unsettled. Some few, however, of the patriots remained in the city, practising such prudence as they might, with, in some cases, open or covert protection from officers of the British army. To those of strong Tory proclivities resident in the city were added constantly, through the whole seven years, Tories from the neighboring country or from the other provinces. It was but natural that those who had thus sought refuge in the city should avail themselves of the dwellings and goods of the fugitive patriots. Here were complications of a sort to engender subsequent controversies about which litigation would have to give place to arbitrary decisions by statute. Authentic documents illustrating these complications are found in *New York City during the American Revolution. Being a Collection of Papers (now first published) from the Manuscripts in the possession of the Mercantile Library Association of New York City.* (Privately printed for the Association, 1881.) The most important of these documents are the loyal addresses of sympathy and approval, to Lord Howe and to the Governor Sir William Tryon, signed by nearly a thousand Tories of every class. These addresses at the time secured means of protection and acts of favor; but on the evacuation of the city by the British army the list of names appended to them was as convenient as a directory for marking the "enemies of their country." Another very important document in this volume is a legal paper in the case of William Butler, assistant British commissary in New York, in which we have interesting details concerning the condition and government of the city during the British occupancy.

when royal governors, after subverting the assemblies, had themselves abdicated their authority? Either total anarchy and lawlessness or some device of popular approval must meet the emergency. The most irritating of the grievances felt by the conservative or the timid under

[Jones's *N. Y. during the Rev.*, with De Lancey's notes to the same, and Dawson's *Westchester County*, give some striking pictures of the experiences of the Tories in New York. A field of research is opened in the *Calendar of Hist. MSS. relative to the War of the Rev.* (Albany, 1868, vol. i.). See a letter of John Jay in the *N. H. State Papers* (viii. 389), and papers relating to the sending of New York Tories to New Hampshire (*Ibid.* viii. 379, 393). Of the spirit of the New York loyalists we can also find some displays in letter-books of Cadwallader Colden, published by the N. Y. Hist. Soc., and in Judge Smith's *Province of New York*; and on Smith, as a leading Tory, see Sabine and *Mag. of Amer. Hist.*, June, 1881. A portrait and biography of Andrew Elliot, who was pensioned by the British government, is given in the *Penna. Mag. of Hist.*, July, 1887. Cf. *Hist. Mag.* (i. 36), and lists in Valentine's *N. Y. City Manual*, 1855, p. 560; 1856, p. 541. On the Long Island Tories, see *Journal of the N. Y. Prov. Cong.*, vols. i. and ii.; Greene's *General Greene*, i. 161; Field's *Battle of Long Island* (Brooklyn, 1869); and the histories of Long Island by Silas Wood (1826), by B. F. Thompson (1843), by N. S. Prime (1845), and in Onderdonk's *Queens* and *Suffolk County*.

For the New York acts against Tories, see Jones, ii., ch. xiv., xv., and App., pp. 510, 524. The act of banishment (June 30, 1778) is given in the appendix of Van Schaack (p. 485). In New York the prejudice against New England did much to evoke the loyalist feeling.

In Pennsylvania the influence of the Quaker spirit did much to repress the insurgent movement (Wallace's *William Bradford*, 158, 368, and W. Sargent's note to his *Loyal Verses of Stansbury and Odell*, pp. 123, 130. Cf. a paper on the Quaker attitude during the provincial wars in the *Penna. Mag. of Hist.*, x. 283). A number of leading Quakers were arrested and sent South in 1777, as told in Gilpin's *Exiles in Virginia*. They claimed the act to be an infringement of their constitutional privileges (*Brinley Catal.*, no. 3,114). — Ed.] A journal of one of the Philadelphia Tories is preserved in the *Penna. Mag. of Hist.* (vol. ix., — 1885–86), being the *Diary of James Allen, Esq., of Philadelphia, Counsellor-at-Law, 1770–1778*. The writer was one of four sons of Chief Justice William Allen, of Pennsylvania. The experiences of all the members of the family at the opening of the Revolution illustrate in a very striking way the struggles and conflicts through which they had to choose their course. Besides holding great wealth and high positions, they had assumed offices, the oaths of which pledged them to loyalty. They sympathized strongly with the best of the patriot party in resenting the oppressive measures of the government, and took part in all the early efforts for a redress of grievances. When the decisive stage of independence was reached, all the brothers protested, and withdrew from the patriot cause. Three of them put themselves under the protection of General Howe. One of them raised a corps of Pennsylvania loyalists, which he commanded till the close of the war. The diarist, whose life ended in September, 1778, while the issue of the contest hung in uncertainty, disapproved of the course of his brothers, and, while still avowing his real sentiments, sought by prudence to protect himself from the harsh treatment, which, however, he could not wholly avert. He took his immediate family to his country place at Northampton, but was obliged to send his wife to Philadelphia, to her friends, to await her confinement. The entries in his diary are mostly dispassionate, and from his point of view the development of events was marked by increasing aggressions against all who favored conciliation. He writes: "When Gen. Howe was expected in Philadelphia, a persecution of Tories (under which name is included every one disinclined to independence, though ever so warm a friend to constitutional liberty and the old cause) began." He insists that the majority of the people in his city and province desire reconciliation. The newly set-up scheme of government in his province he pronounces absurd and impracticable. The assemblymen "are indeed a wretched set. This convulsion has indeed brought all the dregs to the top." The diarist was a typical loyalist, representing a very large class of high-minded and really patriotic men, during the critical period covered by his diary. [Lecky believes that Pennsylvania was preponderatingly loyal. Washington was painfully conscious of the apathy of the people in the campaign of 1777. Pickering called it an enemy's country (*Life*, i. 164).

For the movements of the Tories in New Jersey upon the occupation of Staten Island by the British, see *Hist. Mag.* (v. p. 7).

In Virginia, the higher classes, in the main, contrary to the result in New England, were for the patriots' cause, though at one time there was some doubt as to the course of the province. We gather the views of the friends of government in a volume by an ejected clergyman, the Rev. Jonathan Boucher, whose *View of the Causes and Consequences of the American Revolution, in Thirteen Discourses, preached in North America between 1763 and 1775, with an Historical Preface*, was published in London in 1797, with a dedication to Washington.

In North Carolina the division was pretty nearly equal. In South Carolina the two sides showed a more virulent animosity than was manifested in any other colony, and the Tories were perhaps in the greater numbers. When South Carolina and Georgia were abandoned in 1782, there were 13,271 loyalists, including 8,676 blacks, to accompany the British troops (*Mass. Hist. Soc. Proc.*, Oct., 1886, p. 95). There was a proposal in 1781 to separate Georgia from the Union. Cf. *Observations upon the effects of certain late political suggestions by the delegates of Georgia* (Philad., 1781, — reprinted in the Wormsloe quartos. See *ante*, Vol. V. 401)

such convulsions was the temper of the men who in many places officiously and offensively took upon themselves the exercise of authority, for which it was urged "that they could adduce the laws neither of God nor man," but only their own opinion or will. A meeting of a handful of men, calling themselves a committee, and on occasion drawing after them a mob, often hurried on from simply seeking redress of grievances to an armed resistance of government, and a setting up of a rule which might vary its impositions and its penalties day by day. Of course it was charged that men before unrecognized for worth, assumed the lead. There were instances enough of this, especially in towns and rural regions, to provoke much irritation, and to prompt to many acts of outrage. A pot-house politician, or a brawler in the highway, might on occasion be the oracle of a group ready to insult those who in quiet times had been regarded as their "betters." One who follows the preparatory stages of the rupture with the mother-country, through some of the privacies of letters and diaries written by men favored in social position, will find many plaintive relations in substance like the following. Under the intense popular excitements of the times, an extemporized town or county meeting or convention is summoned without the usual formalities, to listen to the reading of a communication of some patriotic committee of correspondence, or some piece of stirring rumor. Men not heretofore accredited with high wisdom, or charged with official trust, but glowing with patriotism, stir the chance assembly with their rough rhetoric. Some one asks how the "squire," the doctor, the lawyer, the minister, the schoolmaster, or the merchant in the community, stands towards the "cause." Forthwith a committee is appointed to proceed at once to his house and sound him, peremptorily and categorically. The fate of many scores of worthy men heretofore honored was cast on such a chance interview. If timid and cautious, he "trims," hesitates, suggests delay, advises caution, fails of sympathy; and from that moment he is marked for suspicion and rough dealing If anything can be charged of weakness or concession, if he is known to have given advice or aid to the enemy, he may be frightened into concession. Then he is summoned to a meeting of the Sons of Liberty, and on his knees avows his failing, asks forgiveness, and signs a humiliating retraction. If the recusant is of sterner stuff and in any degree defiant, there is in reserve — hardly with the allowance of choice — the coating of tar and feathers, the ride upon a rail, the filthy defilement of his dwelling, and the plunder of his property. The ordeal was a fearful one. It would seem that it oftener failed than succeeded in making patriots. A very disagreeable collection might be gathered alike of the embittered, or the pathetic rehearsals in diaries and letters of the experiences of individual sufferers in this overturning of legal authority and the relations of neighborly social life. They are to be readily gathered up, but better is it to allow these painful experiences to remain, where they have passed, under the oblivion of time.[1]

The Tories were relatively more numerous and influential in New York than in any other of the provinces. The provincial congress or convention assigned to county committees authority to deal with suspected Tories, to engage, if neces-

A report on Treason was made to Congress, Sept. 5, 1776 (Force's *Amer. Archives*, 5th ser., ii. 34); and Congress prompted the States to different repressive measures, as when, on April 19, 1777, it asked Maryland and Delaware to disarm suspected persons (*Journals*, ii. 100). The indexes of the *Amer. Archives*, under "Disaffected" or "Suspected persons" and "Tories," guide to some of these early movements. Ryerson (ii. 130) summarizes the confiscation acts of the several colonies. The retaliatory seizure of rebel estates within the British lines was to be expected (Jones, ii. 35, 66, 98, 120, 399). — Ed.]

[1] The patriot newspapers of the time contain very many cases of such enforced confession and retractions. The following from the *N. Hampshire Gazette* (Portsmouth, Nov. 14, 1774) is an illustration: —

"Gov. Gage, finding it impossible to engage in Boston carpenters and builders for the erection of needful barracks for his soldiers, had been aided by secret agents in New Hampshire, through the royal governor, Wentworth, to procure such workmen. The agency of one Nicholas Austin in this business was ferreted out by the 'Sons of Liberty,' and the delinquent was compelled, on his knees, to make the following confession before them: —

"'Before this company I confess I have been aiding and assisting in sending men to Boston to build Barracks for the soldiers to live in, at which you have reason justly to be offended, which I am sorry for, and humbly ask your forgiveness; and I do affirm, that for the future, I never will be acting or assisting in anywise whatever, in Act or Deed, contrary to the Constitution of the Country; as witness my hand.

'Nicholas Austin.'"

The "Constitution of the Country" was at that time a very august, but a very indefinable, reality. [Jones, among the contemporary, and Ryerson (ch. 36, 37), among the later writers, illustrate these points; and Jones contends that the British treated the luckless Tories hardly less cruelly (cf. vol. ii. 81). His account (ii. 236) of the savage treatment of the loyalists on the reoccupation of Savannah and Charleston (S. C.), is controverted by his critic Johnston (p. 47). For indignities in the early part of the war near New York, see Dawson's *Westchester County*. — Ed.]

sary, the aid of the militia, and to put witnesses under oath. Temporary imprisonment and banishment were the judgments pronounced. When the British fleet arrived, the Tories in the city found protection; but such as had previously left their homes, and those whose estates in the country were in the hands of the patriots, were treated with increased severity. The names of the most obnoxious of them were printed, for their arrest by the military. Some were released on parole, but the prisons were so crowded by the number held in custody, that many, including the Mayor of New York, were sent to, under parole, or confined in, Connecticut. In this province, several Episcopal clergymen who were stipendiaries of the English Missionary Society, holding loyally to their ordination vows, met with the harshest treatment. Before the meeting of Congress, Tories were for the most part left to the dealing of mobs, or to the disposal of extemporized assemblings. On the organization of Congress, something answering to enactments were adopted for introducing authority and method into the treatment of the loyalists.

And here it is desirable to ascertain — it can only be by approximation and inference — the proportion, taken at large through all the colonies, between those who were ready to follow the patriotic movement, and those who desired to stop short of a severance of the bond which united them to Great Britain. So far as concerned a feeling of irritation at the oppressive acts of the ministry, the sentiment of opposition, if not absolutely unanimous, was substantially so throughout the colonies. While there was as yet no clear apprehension as to the result, this class of Tories found it easy to make their reproaches against some acts of the government consistent with a fervent loyalty. All the facts and inferential evidence within our reach fully confirm the positive avowals of Washington, Franklin, and John Adams, that up to the assembling of Congress the vast majority of the people neither contemplated independence, nor were in a condition to assert or safely contend for it. The spirit which at once began to work through the Congress under the shrewd though cautious policy of its patriot leaders, aided by further most opportune provocations furnished by government, prepared the way for the bold stroke which brought about the Declaration of Independence. In the space of two years the majority which stood for allegiance was overpowered, and if not really turned to the side of independence, could assume to be so in the exercise of an irresistible authority to that end. How far acts of persuasion, or a real conversion, and ripening of opinion, or the use of intimidation, contributed to the result, is left to the judgment of each diligent inquirer and competent reasoner to decide.[1]

Alike in speeches and printed essays on the other side of the ocean and in the passionate protests of many of the Tories in the colonies, we meet at this time with the severest denunciations of "the Tyranny of the Rebel Congress." It was said that this was exercised over "the vast majority of the loyal people of the colonies." Unquestionably there was reason for this reproach. Candor admits that a very large number of honorable loyalists had at this crisis to meet a bitter disappointment. They had heartily sent a representation to the Congress for the purpose of securing a redress of grievances; but that Congress had proved, as was claimed, treacherous to its proposed objects, and had led them into a trap, and had abused their confidence. A considerable number of sincere men could say this in all truthfulness. And to the most conscientious of such it would be an imbitterment of the later penalties to feel that they had in any way connived at measures through a misplaced trustfulness.

There was one suggestion of practical good sense and consistency which might have been expected to have had much weight for a considerable class of the adherents of the crown. They had avowed their allegiance to established authority as a safeguard against anarchy. The plea was a good one so long as there was such authority; but it had been wrecked; even the remaining fragments of it were useless. The significant fact was undeniable, that the overthrow of the royal government had been effected fully as much, if not more, by the acts of the official representatives of that government as by the leaders and measures of the revolt. Royal governors had abdicated their chairs and taken to flight. Constitutional assemblies had been disabled and dispersed. Judicial authorities and proceedings were repudiated. Meanwhile, Congress had initiated measures for substituting a new authority and order. It realized as fully and as sternly as did the stanchest loyalists the perils of anarchy, and set itself to avert it. As things then stood, the country had no other government. So far then as the loyalists clung to order against anarchy, they had but to

[1] Fair-minded men among the patriots, of whom John Jay was an admirable specimen, regarded the loyalists as exposing themselves to such harsh treatment as they might receive, by their own acts. They kept up friendly relations and correspondence with the public enemy: they disclaimed sympathy with the patriots; they refused to take part in the election of delegates to the Provincial or the continental Congresses; some of them were known to be secretly arming, and others, as it proved, were ready to fight in the British ranks against their own countrymen.

extend the meaning of the term loyalty from its limited reference to the British king to the recognition of Congress, which had established a government. Certain it was that no alternative offered itself, for in the failure of that effort anarchy was inevitable. And it was as certain that the malignant or the merely obstinate attitude of one class of loyalists was the most formidable obstacle to the purposes of Congress. The sort of government, or the temporary substitute for it, which Congress initiated might be regarded as a government *de facto*. France justified her alliance with the States by averring that she found them exercising government and in possession of independency. This was in conformity with the usage of nations. If the plea was good for foreigners, why not for our own citizens? Undoubtedly it did prevail with a large portion of the loyalist body.

General Gage and the Massachusetts legislature had in the very opening of the decisive controversy respectively defined two parties, and only two, which from that day on were to be recognized each by the other. The general, as governor, had declared that all who should in any way countenance, assist, or hold correspondence with the insurgents should be treated as rebels. The legislature inverted the sentence, and adjudged that all who aided the officers and measures of government should be held guilty of high-treason against the authorities. There was no place from that date onward for men of half-way temper. Free speech was suppressed; tolerant forbearance was denounced. Only by contributions, generally anonymous, in the public journals, and those of limited circulation, was there any comparing of views. The historical inquirer will find fragmentary material of this kind in a few patriotic and Tory journals in Boston, New York, and Philadelphia. But these are mostly lacking in moderation and a judicial temper. History in times of civil discord always assures us of the impracticability of neutrality. There are two familiar sentences of proverbial wisdom in which the different placing of little particles of speech would seem hardly to indicate any variance in the substance of them. "He that is not with us is against us," and "He that is not against us is for us." In all cases in which passion or force do not intrude themselves, these sentences may stand as equivalents; but the entrance of antagonism into the issue draws a sharp difference between them. We must know on whom we can depend and whom we are to distrust. The issue does not allow of half-heartedness or vacillation. This was the ground taken by Congress; and it was probably the only way in which the loyalists could have been prevented from organizing movements for combining their strength. It was intended, at least at first, in Congress, to secure free and full opportunity for deliberate discussion of every element in the great issue. Galloway and Dickinson and others used their privilege and were candidly listened to as they protested against the sentiment and purpose which they found strengthening among their associates. Indeed, we have the distinct statements of the two Adamses, Lee, and others, that they were regarded at one time as the most objectionable and dangerous of the members in their influence to drive their colleagues faster than they were inclined to go. Patriotism rather than loyalty was then under the ban. General Howe, during the examination of Galloway before the House of Commons, gave, as from his own observation, the following estimate of the Tories: "Some are loyal from principle, many from interest, many from resentment; and there are others who wish success to Great Britain from a recollection of the happiness they enjoyed under her government." We have not to search beyond the working of human nature to explain on the one side the elements, both noble and base, that exhibited themselves in the loyalists, or on the other side to account for the vengeful treatment of them by the patriots. Patriotism needed constant reinforcement, by working up its own stern resolution, and by humiliating everything that would bring it to discomfiture. Loyalism in all its stages could find a full justification of itself till it was realized that the final struggle was inevitable. And freely admitting that even after sides were taken on the great issue, men of the highest intelligence and nobleness might still cling to Great Britain, we have equally to grant that the patriots, having resolved to have a country of their own, free from foreign mastery, might justly regard such internal foes, with all that was insidious in their influence, as more to be dreaded than a foreign army of red-coats and mercenaries. At one period of the war the number of armed native provincials enlisted on the side of the enemy was more than double the men under the command of Washington. Some counties on Long Island and in Maryland were found to be possessed by the most virulent spirit of Toryism. Congress, in the January preceding the Declaration of Independence, took measures for disarming all who were disaffected to the patriot cause, first selecting those on Long Island, and then in all the colonies. It was indeed recommended that they should be treated with all reasonable forbearance, though with a resolution that would frustrate all their mischievous machinations. The Tories in two counties of Maryland rose against the patriots, but were put down. A fortnight before the passage of the Declaration of Independence, Congress resolved, "That no man in these colonies charged with being a Tory, or unfriendly to the cause of

American liberty, shall be injured in his person or property, unless the proceedings against him be founded on an order of Congress or committee." The policy of this measure involved both a desire to conciliate the halting, and to discountenance the violence visited on unpopular persons.

The experiences of the Tories naturally divide themselves, for historical relation, under two periods: the one covering the war itself, the other following the acknowledgment of our independence. It must be noticed at once that the dealings with the Tories as a class were by no means left to the decision of any formal orders of representative bodies. Self-constituted committees, and even a neighborhood group of patriots, assumed full authority in this matter over individual recusants. It is inevitable that in civil war — for such was our war for independence in its early stages, and such, in fact, in some of its features it continued to be till its close — the loyalists should suffer what in their view was intolerance and injustice. They might hesitate between bold, manly protest, with such resistance as they could make to arbitrary treatment, and quiet, patient submission. It mattered little during the conflict, though it went easier in the end with those who had chosen the latter course. As a general rule, the more conspicuous Tories were the foremost in suffering under popular indignation. There were exceptions in rare cases of individuals known for quiet bearing and for public spirit. It is curious to note that in Boston, for instance, and its neighborhood the most eminent medical practitioners were stout in standing for loyalty, but were humorously said to have found a bulwark in the women who depended upon their services. The exceptional patriot in this class, Dr. Warren, who fell on Bunker Hill, had a heightened popularity. Another alternative presented itself sharply to those exposed to the tongues and hands of the patriots: whether they should remain in their lot waiting for the calming of the strife, or seek security within the lines of the enemy, and become dependent for support upon offices or doles. Those who chose this latter course found at last, to their sore dismay, that they had hopelessly identified their lot with the enemy, and, as we shall see, were under the necessity of escaping with the ban of exile and confiscation. Humble loyalists who had little at stake concluded to bear the risks of remaining, trimming sometimes to the breeze and according to their temper, having their loyalty ridiculed or condoned. The traditions and town records of many rural settlements preserve the memories of individuals who stood stoutly for the king and loved through after-years to boast of it, as did those of like temper across the water, who drank to the health of "King Charlie." The two daughters of the old Congregational, Tory pastor of Boston, Mather Byles, displaced from his office after the release of the town from the British army, continued through their old age to keep the birthday of George III, and to regard themselves as his subjects.[1]

Through the whole of the war large bodies of the loyalists, so far from placidly submitting to the severities of the patriots, had been gathered into very formidable military organizations, and had by no means an unimportant part in the struggle. The fact of the existence and activity of those loyal provincial forces may have in many cases prompted, as it certainly would justify, a stern restraint upon them with severe penalties.[2] Private and individual proceedings against Tories were in the beginning devised to ascertain their opinions and to draw from them recantations. Then followed disarming, confinement to one's house or limits, fines or tributes. As soon as a committee or an assembly could present a show of authority, the allegiance of the people was claimed. Names of suspects were set down; secret testimony was taken; imprisonment, confiscation, banishment, with death on return, were the successive penalties. In few cases, if indeed in a single one, did public authority ever redress a single grievance or wrong for an individual. Before the treaty, each of the thirteen States had passed acts, varying in degrees of severity, against Tories. Offences were graded, — such as sending information to England, or giving it to foes here; supplying the enemy or enlisting for them; piloting their vessels; speaking or writing against measures of Congress or of an assembly; any suspicious acts of enmity; leaving home for another province; refusing to renounce allegiance to the British government, or to swear allegiance to the new government. The penalties, too, were graded. Congress prompted many of these

[1] *Mem. Hist. Boston*, iii. 160.

[2] A perfectly candid classification of the loyalists by their differences was that made by Franklin, when the subject of leniency towards them was under discussion in the negotiations for peace. He wrote: "Some of those people may have merit in their regard for Britain, and who espoused her cause from affection: these it may become you [Britain] to reward. But there are many of them who were waverers, and were only determined to engage in it by some occasional circumstances or appearances; these have not much of either merit or demerit, and there are others who have abundance of demerit respecting your country, having by their falsehoods and misrepresentations brought on and encouraged the continuance of the war; these, instead of being recompensed, should be punished." (Sparks's *Franklin*, ix. 431, 432.)

measures, with the establishment of martial law in various places, accompanied by the definition and penalty of treason.

Massachusetts first initiated severe proceedings against Tories, which involved banishment and confiscation of property. The penalty fell in the beginning upon a number of merchants, barristers, and attorneys, and some government officials who had signed letters of address to Governor Hutchinson before and at the time of his departure from Boston, in June, 1774. The same penalty was visited upon like offenders in addressing General Gage upon his coming and going off. Some of the signers in both cases made their peace by public apologies. To these prime offenders were soon added others, who obtruded their loyalty or discouraged patriotic measures. During the whole course of the war, in whatever place a British force was concentrated, all the Tories in the neighborhood who were odious to the patriots, or who had received rough treatment, would seek protection within the lines, and become dependent upon the British commissaries. Boston, during the siege, 1775–76, was the first harborage of such fugitives from the neighboring towns. While the patriot army environed the town, these frightened or disaffected persons, getting an entrance to it, generally by water, caused a reckoning against themselves as the worst enemies of their country, because of the encouragement and information they gave to the foe. When the British commander evacuated the town he had upon his hands more than a thousand of the Tories, who trembled at the thought of being left to the rage of their countrymen. He had no other course than to take them with him, with or without their effects. In most cases they had with them the whole or parts of their families. They were taken to Halifax, and some of them found their way to England. The *Salem Gazette* of Nov. 6, 1783, published the names of forty-five of these who had died in exile before the peace. In April, 1779, Massachusetts passed a "Conspiracy Act," involving the estates of all officials of the late government who had gone off, and another act for confiscating the estates of "certain persons commonly called absentees." A more general act was passed in Sept., 1778. This gave the names and occupations of a most miscellaneous company, consigned to banishment; and if any of them returned without liberty granted, the penalty was to be death. The names of three hundred and ten men were on this list; of these more than sixty were graduates of Harvard College. When the British evacuated Philadelphia in June, 1778, three thousand of the inhabitants followed the army.

The agency of Congress in measures looking to the restraint of the Tories is indicated in the following resolutions, Oct. 6, 1775: "That it be recommended to the several provincial assemblies or conventions, and councils or committees of safety, to arrest and secure every person in their respective colonies, who, going at large, may in their opinion endanger the safety of the colony or the liberties of America."[1]

One of the aggravations of the misery of the Tories was, that in many places and on many occasions they were treated with an indiscriminate severity by the British forces. In passing through the Jerseys and parts of Pennsylvania, the red-coats and the Hessians seemed to find a wanton pleasure in entering the houses and barn-yards to outrage and pilfer, to drive away the cattle and devastate the crops of those who as Tories had received like treatment from the patriots. Some of these victims had fortified themselves with protection papers obtained from British officials, testifying to their fidelity to the government, and even to their having done service for it. But it was in vain that, in protesting against these rough marauders, they exhibited these certificates to those who either could not or would not read them. Pitiable indeed was the fate of many of these doubly-harassed farmers, mechanics, and gentlemen on retired estates. Cases are on record in which rapine and violence were accompanied by vile debaucheries which drove many sufferers to desperation.

As a general rule, the Tories were content with an unarmed resistance, where they were not reinforced by the resources or forces of the enemy. But in successive places in possession of the British armies, in Boston, Long Island, New York, the Jerseys, Philadelphia, and in the South-

[1] On Jan. 2, 1776, the same bodies were recommended "by the most speedy and effectual measures to frustrate the mischievous machinations and restrain the wicked practices of these men. And it is the opinion of this Congress that they ought to be disarmed, and the more dangerous among them either kept in safe custody, or bound with sufficient sureties to their good behavior." On the next day this resolve was directed to provide for seizing, disarming, and putting in safe custody all those who in Queens County, New York, voted against sending members to the convention in that province. On March 14, 1776, all the colonies were recommended to disarm all disaffected persons, and those who would not associate themselves in defence against the enemy. On June 13, 1776, this recommendation was expressly made to the Committee of Safety of Delaware. On June 18, these measures against Tories were qualified against individual severities, by requiring the sanction of some public body. This was followed by a declaration that certain classes of such Tories should be held guilty of treason against the colony.

ern provinces, there rallied around them Tories both seeking protection, and ready to perform all kinds of military duty as allies. By all the estimates, probably below the mark, there were during the war at least twenty-five thousand organized loyalist forces. In an address made to the king by the refugees in England in 1779, they say that their countrymen then in arms for his Majesty "exceeded in number the troops enlisted to oppose them." In a later address to the king and Parliament in 1782, they make a still stronger assertion. Very many of the provincials, who as military officers had shown abilities and acquired experience in the previous French war, were strongly loyal to the crown, and were ready for service under it. Of these, a very able and conspicuous man, Col. Timothy Ruggles, set about organizing a loyal corps in Boston during the siege. One receives a very vivid impression of the emphasis which these military bodies gave to their loyalty from the names designating their organizations. They were such as these in different parts of the country: "The King's Rangers," "The Royal Fencible Americans," "The Queen's Rangers," "The Prince of Wales' American Volunteers," "The King's American Regiment," "The British Legion," "The Royal Foresters," etc. In the House of Commons, June 27, 1783, on motion of Lord North, half-pay was voted to the officers of twenty-one of these corps. Burgoyne, in planning his fatal expedition from Canada, had largely relied upon his complement of loyal Americans, though they proved of almost as little service as did his Indians. These Tory allies of the enemy were most effective in predatory exploits, as knowing the country which they plundered.

The most annoying military service of American loyalists was that which was protracted through the whole war by a corps raised by Sir John Johnson, the English agent resident among the Six Nations. These savage tribes were strongly attached to him and to the service of Britain, in which many of them had been allies in the French war. Johnson's power over them made them dreaded as wily and ruthless enemies. Johnson, irritated by the treatment he had received in Schuyler's expedition from Albany to his home in Johnstown, at the beginning of the war, made his way to Canada, followed by many loyalists of his neighborhood. Here Sir Guy Carleton, the governor, commissioned him as colonel of two battalions of five hundred men each, and allowed him to nominate his own officers. The ranks were at once filled. With a strong following of Mohawks, this corps of American loyalists became a scourge to the patriots. It was because of the atrocities perpetrated by these savages that Washington issued his orders to Sullivan for an expedition into their country. In 1776, Gen. Howe, on getting control of Long Island, commissioned Oliver DeLancey, a New York loyalist, as brigadier-general, to raise three battalions of five hundred men each, designed, as it was first said, to defend the island. Two of these battalions were transported to Georgia as coöperating forces. There, and in the other Southern provinces, they did most willing and effective service against their own countrymen until the close of the war.[1]

[1] [Cf. *Hist. Mag.*, viii. 321, 355, 389. Sparks, in his *Washington* (iv. 519), tells the story of the organization of the loyalists' armed legions at the beginning of the war, and Howe (*Narrative*, pp. 51–53) expresses his disappointment at the numbers enlisting. These Tory legions were raised under distinctive names (Sabine, i. 73; Lossing, ii. 874), and some of the chief of them were recruited in and about New York (A. G. Bird, in *Mag. of Amer. Hist.*, 1881, p. 418). Brymner, the Canadian archivist (*Report*, 1883, p. 11), gives a list of twenty-nine loyalist corps whose members settled in New Brunswick. Respecting Sir John Johnson's "King's Royal Regiment," see J. W. DePeyster's *Life, Misfortunes, and the Military Career of Brig.-Gen. Sir John Johnson* (New York, 1882); Theodorus B. Myers's *Tories or Loyalists in America: being slight Historical Tracings from the Footprints of Sir John Johnson and his Cotemporaries in the Revolution* (Albany, 1882), which is a separate issue of a part of *The Orderly-Book of Sir John Johnson*, edited by W. L. Stone and J. W. DePeyster (Albany, 1882). The Brit. Mus. *Catal. of MSS.* (1880, pp. 801–802) shows among the Haldimand Papers a large number of the letters of Sir John and Col. Guy Johnson. The same Haldimand Papers contain the correspondence of that general with the loyalist officers in Canada, 1778–84, and the correspondence of the "King's Royal Regiment," of New York, 1776–83; and many details about the loyalist regiments are in the papers of "Sir Guy Carleton, 1782–83," in the War Office, London (*Canadian Archives Report*, 1874).

The most famous of these Tory partisan corps was the "Queen's Rangers," which was first recruited by the border fighter Robert Rogers, in December, 1776. Rogers had been strolling about the country, exciting some suspicion, before this (Sparks's *Letters to Washington*, i. 92, 97; *Washington*, iii. 208; Hough's ed. of *Rogers' Journal*, App., p. 258; *N. H. Prov. Papers*, vii. 680, 681). He had finally been arrested in Philadelphia, but, being released on parole not to serve against America, he fled to New York, and entered upon this recruiting service (*John Adams's Works*, ii. 425; Force, *Amer. Archives*, 4th series, i. 865). His correspondence with Gen. Haldimand is noted in the Brit. Mus. *Catal. of MSS.* (1880, p. 1230). — Ed.]

The command of the "Queen's Rangers" afterwards passed to John G. Simcoe, who privately printed *A Journal of the Operations of the Queen's Rangers, from the end of the year 1777 to the conclusion of the*

The loyalists were found so numerous in New York in 1780 that they were encouraged by the British government to form an association of their own, independent of the orders of the British commander. It was entitled "The Honorable Board of Associated Loyalists." At its

late American War, by Lieut.-Col. Simcoe, commander of that Corps. Simcoe was himself an Englishman and an Oxonian, son of a British naval commander, and arrived in Boston on the day of the battle of Bunker Hill. He says that "he always considered the war as forced upon Great Britain, and in which he served from principle." Knowing well the ill repute of partisan corps service, he thought he could redeem it by true soldierly qualities. He solicited and obtained from Gen. Howe, in New York, the command of this corps. He had previously offered to Gen. Gage, in Boston, to enlist a corps of negroes, whom Gage thought were not numerous enough. He had also a special pride in having Indians under his lead. The operations of the corps began with the movements of the British army in the Jerseys, and were continued in the neighborhood of Philadelphia, afterwards in New York and Long Island, extending down to the actions in the Southern provinces, and closed at Yorktown. Simcoe says that on learning of the surrender of Cornwallis he asked the earl to allow him to escape with the loyalists and deserters in his train. "His lordship was pleased to express himself favorably in regard to the scheme, but said he could not permit it to be undertaken, for that the whole of the army must share one fate" (page 254). Simcoe, alleging the advice of a physician that only a sea-voyage could save his life, slunk off in the "Bonetta" with as many of his and other corps as she could hold. The vessel had been courteously left at the disposal of Cornwallis for the transmission of despatches and the wounded. Simcoe was duly exchanged afterwards. Going to England, he returned soon to Canada, and being commissioned as lieut.-governor of Upper Canada, he lost no opportunity of showing his hostility to his American neighbors. [There is a portrait of Simcoe in the gallery of the Penna. Hist. Society. A copy of Simcoe's *Journal* with the original drawings bound in, and MS. marginal notes by Gen. Clinton, was held by Quaritch in 1888 at £50. — Ed.]

Benjamin Thompson, afterwards Count Rumford, had fled early in the war into Boston, whence going to England, the most fortunate of all his associates, he found place, influence, and patronage under Lord George

COUNT RUMFORD.*

Germain. Curwen had known Thompson in his youth, and writes of him thus: "A native of Massachusetts (formerly an apprentice to my next-door neighbor in Salem, Mr. John Appleton, an importer of British goods), now under-secretary in the American department." [Towards the end of the war he returned to New York, and was commissioned colonel of the "King's American Dragoons," in February, 1782, and gained some credit for his exploits round New York and at the South (*Life of Count Rumford*, by G. E. Ellis, Boston, 1871).

* [After a print in the *European Mag.*, February, 1797, vol. xxxi. — Ed.]

head was the son of Dr. Franklin, — William, late the Tory governor of New Jersey. The force was well armed at the expense of government, but they had to depend on their own resources for provisions and clothing. They were not only permitted, but prompted to enrich themselves by the plunder of rebels. They made the shores of Long Island, of Connecticut, and New Jersey the fields of their raids, and were a terror to the farmers. The most reckless among them were wholly unscrupulous of the difference between friends and foes. They were abundantly furnished with small sloops and schooners and large whale-boats, commissioned as private vessels of war, guided by those who were familiar with the waters. They sacked houses, and burned barns and churches, and took off livestock. These armed Tories were ranged under three organizations, including bands of horsemen, all under the "Honorable Board." Of course the rebels retaliated, with like "commissions" from their principals, and with hardly an appreciable difference in the methods and morals of their exploits. Indeed, if we can credit some well-attested authorities of the time, there was a sort of comity established between the fleets and expeditions of these freebooters of rebels and Tories. It was said that the two parties never assailed each other, and that when a boat or a company of either of them passed in view they signalled amicable recognitions. They even had a system of exchanging prisoners without the formalities of a cartel. The traditions of many shore towns and inner villages in the wide region visited abound in rehearsals of the freaks and ventures of these licensed outlaws. After the peace many of the members and subordinates of this "Honorable Board" were provided with vessels for Nova Scotia, and the officers were pensioned.

When the day of reckoning came at the close of the war, it needed no spirit of prophecy to tell how these Tories, armed or unarmed, would fare, and we have not to go outside the familiar field of human nature for an explanation. That it was not till six months after the ratification of the treaty by Congress that Sir Guy Carleton removed the British army from New York — the delay being caused by his embarrassment from the crowds of loyalists seeking his protection — is a reminder to us of their forlorn condition.[1] Part of the demonstrations with which the rough populace in many places celebrated the humiliation of the enemy was the seizing upon any Tory within their reach to mock and torment him.[2] From all over the seaboard of the continent refugees made their way to New York in crowds. They hurriedly left their homes, with all family treasures and effects, their unsettled business affairs, and generally their wives and children in a state of utter distraction, to escape outrage and to encounter penury. They threw themselves in despair upon the protection of the British commander. He fully realized and tenderly assumed the responsibility. He pleaded his encumbrances of this

The Narrative of the Exertions and Sufferings of Lieut. James Moody in the Cause of Government since 1776 (London, 1782; second edition, 1783, with new matter; reprinted by Dawson at Morrisania; and with introduction and notes by Charles I. Bushnell at New York in 1865; also in *The Excitement*, Boston, 1833, — Sabin, xii. 330, and Sabine, ii. 90) records the exploits of an officer of Gen. Skinner's New Jersey Tory brigade. Cf. W. S. Stryker's *New Jersey Volunteers* [loyalists] *in the Rev. War* (Trenton, N. J., 1887). The *Narrative of the Transactions, Imprisonment, and Sufferings of John Connolly, an American Loyalist* (privately printed, London, 1783), is the story of a man commissioned a lieut.-colonel by Gage, with authority to raise troops to act with the Indians. Connolly was early (Nov. 5, 1775) arrested, and was kept a prisoner for five years (Stevens, *Hist. Coll.*, i. 1384). There was printed at Greenock, Scotland, in 1780, *The Adventures of J. McAlpine, a native Highlander, from the time of his Emigration from Scotland to America in 1773*, who served as a loyalist under Carleton, Burgoyne, and others.

The most obnoxious of all the Tory vagabondish military leaders was Col. David Fanning, of North Carolina, whose *Narrative, giving an Account of his Adventures in North Carolina from 1775 to 1783, as written by himself, with an Introduction and Explanatory Notes* (Richmond, 1861; reprinted, New York, 1865), was printed from a copy of the original MS. in the possession of Charles Deane. The notes are by Gov. Swaine, of North Carolina, and by Thomas H. Wynne, of Richmond (Sabin, vi. 23,778–79.) Cf. Chesney's "Carolina Loyalists," in his *Essays in Military Biography*, and Caruther's *Interesting Revolutionary Incidents* (Philad., 1856). — Ed.]

[1] [The British Headquarters Papers in the Royal Institution in London show the numerous loyalists' petitions showered upon Carleton, and some of them are copied in the *Sparks MSS.* (no. lvi.). — Ed.]

[2] The following is an extract from a letter dated Oct. 22, 1783, written by a gentleman in Newburgh, N. Y., to a friend in Boston: "The British are leaving New York every day. Last week there came one of the dam'd Refugees from New York to a place called Wall-Kill, in order to make a tarry with his parents, where he was taken into custody immediately: his head and eyebrows were shaved, tarred and feathered, a hog-yoke put on his neck, and a cowbell thereon; upon his head a very high cap of feathers was set well plum'd with soft tar, and a sheet of paper in front, with a man drawn with two faces, representing Arnold and the Devil's imps; and on the back of it a card with the refugee or Tory driving her off." (*N. Y. City Manual, 1870*, p. 815.)

character in answer to the censures upon him for delaying his departure, and he vainly hoped that Congress would devise some measures of leniency to relieve him.

It is difficult to estimate with any approach to exactness the number of these hounded victims. Many hundreds of them had been seeking refuge in Nova Scotia and New Brunswick since the autumn of 1782, and additional parties, in increasing number, followed to the same provinces. An historian sets the whole number at the close of 1783 at twenty-five thousand.[1] Large numbers of the loyalists of the Southern provinces were shipped to the Bahamas and to the West India Islands. At one time Carleton had upon his hands over twelve thousand Tories clamorous for transportation.

On his surrender at Yorktown, Cornwallis endeavored to make terms in behalf of the loyalists who had gathered about him. Washington firmly refused to make any composition on their behalf, insisting that they must be tried by civil process as traitors. He must, however, have winked at a proceeding in which the most obnoxious of them slunk off in the "Bonetta," which he had consented should take despatches to New York without being searched.[2]

In the summer of 1782, by order of the ministry, Charleston and Savannah were evacuated, the garrisons and the stores removed, and the places left to the inhabitants. Thousands of native loyalists, who had served in the garrisons or furnished supplies to the enemy, were thus to be left unprotected to the mercies of their fellow-citizens. The British commanders delayed their embarkation as long as possible, to make some sort of provision for these unfortunates. Hundreds of them were sent to St. Augustine, others to the Bahamas and Bermudas and to Jamaica. The remainder who were removed went in the fleet to New York, to be finally dispersed to Nova Scotia, Canada, and Newfoundland. Still there was a large remnant, deserted families, aged, and young, whose experience was wretched through insults and plunderings. Some were stripped of all they possessed, and some were hanged.

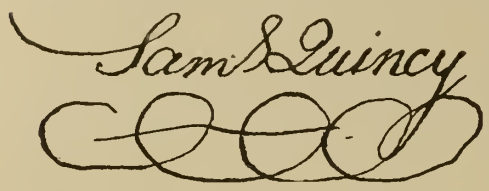
In following the fortunes of expatriated loyalists we might select special cases of individual hardship, but a general summary — all that can be given here — will be painful enough to meet the objects of faithful historical relation. It will be remembered that the pledges to them of protection and remuneration had been reiterated in terms steadily increasing in strength by the British commanders with each stage of the revolt, and the pledges were heartily confirmed in precise terms by the king and the ministry. Of course two conditions were assumed in these promises, on which it was supposed their fulfilment would rest; both which conditions, however, failed. The first was that the conflict would soon be brought to a close by the triumph of the government. The second was that the remuneration for the losses of the loyalists would be at the expense of the defeated rebels. There had been, so to speak, caught unexpectedly on the other side of the water, at the opening of the quarrel, many native colonists, who had gone abroad for business or pleasure. They watched the aspect of affairs with anxiety. If they were firm in their patriotism, they would be prompted to return. If they were timid, or with strong instincts of loyalty, they would remain and watch the tide. To those of the latter class, as a nucleus, were soon added in an increasing volume a steady crowd, and a most miscellaneous gathering of refugees from the provinces, chiefly the northern, who had thought it safer to seek an asylum, supposed to be only a temporary one, in England. Such a crowd embraced all varieties of character, from those most harmless and inconstant in feeling to those who had been bitter opponents of the patriot cause. Naturally, among these latter the most mischievous in their influence were men who had abandoned official places, and had arrived in England generally in extreme destitution. The diaries and letters of Gov. Hutchinson and of Judge Samuel Curwen, with many other like papers, enable us to set before ourselves in full details, saddening or amusing, the experiences of these forlorn exiles, seeking the solace of mutual miseries in each other's company. They were indeed as dismal a fellowship as has ever been gathered in any part of the civilized earth. They soon learned to form a close companionship through their tastes and affinities, to meet constantly for conference, or to communicate intelligence, with their hopes and fears, by correspondence. Two tedious but inexhaustible subjects engaged their speech: one, the relation by each of his own losses and tribulations, with his success or failure in securing a pension; the other, the intelligence and rumors of each passing day, with its alternations of hope or despair. The tale of the surrender and that of the death of Washington are specimens of these rumors. But the reading of them now carries with it but a faint impress of the hope and encouragement which balanced their feelings. Some of these exiles found com-

[1] Murdoch's *History of Nova Scotia*, iii. 23.

[2] The Appendix no. xv. to vol. i. of the *Cornwallis Papers*, as edited by Charles Ross, shows how earnest that general was to provide security for the loyalists who had served him. It was a stretch of leniency which allowed him to carry off so many of them. [Cf., on the other hand, Walpole's *Last Journals*, ii. 486.—Ed.]

fort in dining frugally together on set days. Soon they made a sort of general headquarters at the New England Coffee-House in London. The arrival of a newspaper from the seat of war, the communication in the *Gazette* of such information as the government chose to disclose, intimations leaking out as to what was kept back, the comments of other journals, reported utterances of ministers or members of the opposition on critical occasions, furnished abundant materials for quiet gossip or for fresh dreads or hopes.[1] This group of dismayed

[1] [The best sources for a knowledge of this loyalist society in London are the following: *The Diary and Letters of Thomas Hutchinson, compiled by P. O. Hutchinson* (Boston and London, 1884 and 1886, in two volumes). Hutchinson died in 1780. His diary is of the first importance, but his garrulous and bewildered editor has sadly overburdened the book. Hutchinson suffered little of the distress for pecuniary means which embarrassed many of his associates. He was prominent in the New England Club, which was formed among them (*Mem. Hist. of Boston*, iii. 175). The diary of another — Samuel Quincy — is given in the *Mass. Hist. Soc. Proc.*, xix. 211 (January, 1882). The diary of Henry Oxnard was printed in the *N. E. Hist. and Geneal. Reg.*, vol. xxvi., and separately with a sketch of his life by Edward S. Moseley (Boston, privately printed, 1872). — Ed.]



A refugee is the proper title of the class of men of which Curwen is a rather favorable specimen. He was not driven from the country, nor proscribed after leaving it, and was allowed to return unharmed in person or property. He was born in Salem, Mass., in 1715, descended from an English family emigrating hither in 1638. Filling honored positions in mercantile and professional life in its generations, the family were in high social standing. Graduating at Harvard in 1735, ill health caused him to give over his preparation for the ministry and to engage in mercantile business. He was a captain in Pepperell's successful expedition against Louisburgh. He was a justice of the peace for fifty years, and when he abandoned his home was deputy judge of admiralty and provincial impost officer. Curwen was, at the outbreak of the war, sixty years of age. He was a man of a lymphatic spirit, without force enough to be of much account on either side in which his sympathies or convictions might engage him. He loved the placid round of a comfortable home life and of neighborly intercourse. His resentment under the affronts which he received, and his apprehensions of something worse, led him to leave wife and home, as he supposed only temporarily, on April 23, 1775, for a refuge in Philadelphia. He did not find himself welcome among the Quakers, so, leaving that city, he embarked for Liverpool on May 13th. He always regretted that he took this step. He considered himself unjustly ranked among the enemies of his country. He thought conciliation would restore harmony, and he shuddered at the idea of a possible final rupture. Without questioning the personal integrity or purity of motive of such leading spirits as James Otis and Samuel Adams, he regarded them as dangerous fomenters of strife. He saw that their influence over "the lower classes" excited them to riots. For one of his temperament the situation was intolerable, and the prospect one of hopeless gloom. On his arrival in England, where he could not prevail on his wife to join him, he for a time flattered himself that the storm of dissension would erelong be pacified. An early edition of *Curwen's Journal and Letters*, written in England, fell into the hands of Charles Dickens, who found in it charm and interest enough for articles in his *Household Words* for May and June, 1853. In its latest edition it is entitled *The Journal and Letters of Samuel Curwen, an American in England, from 1775 to 1783, with an Appendix of Biographical Sketches, by George Atkinson Ward* (fourth edition, Boston, 1864). See Sabin, v. p. 147, and references in *Poole's Index*, p. 326. Its gossip, its descriptions of pleasant excursions, and its narrations of what each day brought of news and rumors, will continue to make the volume an engaging one. The familiar names of Hutchinson, Pepperell, Quincy, Sewall, Copley, Clarke, and others constantly occur. Those of the London colony who were in easier circumstances entertained their fellows at dinner and tea. At their club they listened to private and public intelligence. Their eyes were opened to the corruption of public business. They learned of the activity of Yankee privateers, which up to February, 1778, "had taken 733 vessels, containing 13,000 men, and valued at £4,823,000 sterling." They heard far more threatening invectives used against the measures of the government by men in opposition than had ever been uttered by the most blatant Tories in America against the patriot cause. At a meeting of the "Disputation Club, Queen's Arms," in September, 1775, Curwen heard "Question debated, 'Is it not injustice in the administration to pursue measures at the cost of the price of blood, without any benefit to the nation?' which was voted in the affirmative, but not without a few dissentients" (page 41). In April, 1776, he finds Gov. Hutchinson reading a new pamphlet, *An Inquiry whether Great Britain or America is Most in Fault* (page 53). Curwen seems to have taken with him some slender funds, and to have received occasional remittances. He writes in October, 1775, that he is practising a rigid economy on twenty guineas a year, and is in dread of coming to absolute want. By the kind interest made in his behalf by his friend, Judge Sewall, he received at the British treasury, March 10, 1777, a hundred pounds down, and a pension of another hundred during the troubles (page 112). When he learns with satisfaction that, though his name had come up in the Massachu-

refugees ranged all the way from Gov. Penn, who had lost a province, down to a tide-waiter, who had been robed in a suit of tar and feathers. But there was one central object for the gaze of all eyes, and that was the Treasury, with its pensions and doles: in a few cases bestowed

setts legislature for mention on the banishment act, it had been omitted, he is made anxious lest that omission should cause the loss of his pension. Curious it is to note the Yankee spirit in this mild-tempered man when he hears of a slight cast upon the soldierly qualities and courage of his countrymen. Thus he writes, in December, 1776: "It is my earnest wish the despised Americans may convince these conceited islanders that, without regular standing armies, our continent can furnish brave soldiers and judicious and expert commanders, by some knock-down, irrefragable argument; for then, and not till then, may we expect generous or fair treatment. It piques my pride, I confess, to hear us called 'our colonies,' 'our plantations,' in such terms and with such airs, as if our property and persons were absolutely theirs, like the villains and the cottages in the old feudal system, so long since abolished, though the spirit or leaven is not totally gone, it seems" (page 97). He says he had received but ten letters from old friends in Salem during five years. Noting, in February, 1783, the death of Mr. Flucker, royal secretary of Massachusetts before the war, he marks him as the forty-fifth of the refugees of that province, of his acquaintance, that had died in England. There is much of piquancy in the way in which Curwen writes of his seeking in vain the countenance of the blandly spoken courtier, Benjamin Thompson, under-secretary with Lord George Germain, afterwards famous as Count Rumford. His perquisites were then £7,000 a year. Curwen had known him as a shop-boy in Salem. When Curwen's fellow-exiles formed an association in London, he says "they affected to call themselves by the pompous character of loyalists." He preferred the title of refugee. He was gratified to hear that they might appoint agents to receive their pensions, go where they would, even to the United States. He gave a power of attorney to a friend for that purpose, avowing his intention to go to Nova Scotia, or some other royal province, if not allowed to go home. He leaves us uninformed whether he lived and died a pensioner on the royal bounty. Feeling the infirmities of age, after much purring and hesitating over the step, he seeks to learn whether it would be prudent for him to risk a return. He had much misgiving. He read in the papers in the New England Coffee-House, August, 1783, "of the rising spirit of Americans against the refugees, in their towns and assemblies. Intoxicated by success, under no fear of punishment, they give an unrestrained loose to their angry, malevolent passions, attributing to the worst of causes the opposition to their licentious, mobbish violation of all laws, human and divine," etc., in much the same tone. Assured by friends that he might venture, he embarks, and after an absence of nine years and five months reaches Salem in September, 1784. He was unharmed, and kindly received, but his property was wrecked. His wife died in 1793. He died in Salem, in 1802, at the age of eighty-seven.

Another important record is *The Life of Peter Van Schaack, LL. D., embracing Selections from his Correspondence and other Writings during the American Revolution and his Exile in England, by his son, Henry C. Van Schaack* (New York, 1842). The subject of the memoir chose for his motto *Superanda fortuna ferendo*, and well did he illustrate it by fortitude and dignity under trial. He was descended from Dutch stock, which on inquiry he learned was "respectable," and was born in Kinderhook, N. Y., in 1747. Educated at Columbia College, he had for early intimates, who continued to be his lifelong and constant friends, though they were all of them sturdy Whig patriots, such men as John Jay, Egbert Benson, Richard Harrison, Gouverneur Morris, R. R. Livingston, and Theodore Sedgwick. He attained distinction as a lawyer, and at the age of twenty-six had collected and revised the statutes of New York for eighty years, from 1691 to 1773. On the outbreak of the dissension he assumed, from conscientious convictions, which he thoroughly and repeatedly examined, these two principles: first, that the measures of the British ministry were arbitrary, oppressive, and unjust, and should be firmly opposed and resisted by remonstrance and petition, without the taking up of arms; and, second, that an unbroken connection with the mother country was vitally essential to the prosperity of the colonies, while a civil war would result in anarchy and ruin. He held consistently to the course which these principles prompted, so that he spoke and acted in sympathy with the Whigs till the crisis when independence was declared and recourse was had to arms, when he withstood further action, and sought to maintain a position of quiet neutrality in his native village. This was not allowed him. His brother-in-law, Henry Cruger, Jr., a New Yorker, was then a merchant in Bristol, Eng., and represented the town in the House of Commons. Van Schaack furnished Cruger, in his letters, materials and arguments for effective speeches in Parliament against the unwise and mischievous measures and the oppressive acts of the mother country, but a final rupture with her Van Schaack would not contemplate for a moment; and though, after his return from his six years of exile, he was an honored and serviceable citizen of New York, he seems never to have become in heart and conscience reconciled to the result of the Revolution. After the adoption of the New York State constitution, in April, 1777, he was summoned before the committee on conspiracies, acting by wholly arbitrary measures, and required to take an oath asserting the independence of the State. This he refused. He was suffering under the severest domestic afflictions, having been bereaved of his wife and six children, and threatened by cataracts with total blindness, which was afterwards visited upon him. He sought permission to go to England for the aid of an oculist. New York passed a banishment act in June, 1778, and in the next year a confiscation act. The latter was so harsh in its terms as to be condemned by Jay and other

generously and freely, yet never lavishly, in many grudgingly. The stress of appeal was in all cases laid upon the past pledges of government, whose officials must often have had occasion to apprehend the force of that test of righteousness, "the swearing to one's hurt and changing not." A candid judgment on the course of the government will be that it made a generous effort, and at considerable outlay, to redeem its pledge, but was shamefully baffled into failure at last, with a partial excuse from necessity and impracticability.

We have to distinguish two methods in the course of the British government. One method was in the relief which it furnished while the war was in progress, the other in the provisions made in their behalf after the end came. While the war was in progress all things were involved in uncertainty, all arrangements were temporary. Till very near its close, government, at least, contemplated its own triumph. Of course, therefore, the expectation was that the refugees would, sooner or later, return to their homes, reclaim their rights, and be reinstated in their property. Their necessities were supposed to be temporary, and so were at first met by grants of money for only a quarter of a year. From time to time, as demands increased, there was a readjustment of the scale for individuals. A scare would run through the pensioners of a proposed reduction. Then there would be a new crowding to the treasury, a few fortunate individuals backing their appeals with some favored one behind them. When the independence of the colonies was ratified, some more permanent and comprehensive measures were necessary. As this emergency came, a reckoning was had as to the outlay which had been made from the treasury up to the autumn of 1782 for the temporary aid of the exiles. The number appearing on the list of pensioners at that time was 315, and the amount bestowed was £34,605 sterling.

It is to be remembered that this arrangement was made before any view was had towards the conclusion of a peace. The allowances made to refugees had come to be felt as burdensome, dispensed by no well-arranged system, and de-

Whigs, and was subsequently softened. Van Schaack sailed for England in October, 1778, and returned home in July, 1785, where he was reunited to his three young children. He was wholly unmolested, and was kindly received by old friends, but was never chosen to office, occupying himself with the law and the training of many pupils. He was a thorough classical scholar and a courteous gentleman. During his six years' exile in England he made a happy and diligent use of his social and professional opportunities. He never sought any patronage or reparation from the English government, but concerned himself in befriending his fellow-exiles. His eyes were opened to the corruptions of government, and he ceased to hold his former charitable opinion that the ministry, though well-intentioned, were simply ill-advised. Only the horrors of civil war made him welcome the full acknowledgment of his country's independence. He enjoyed a peaceful and honored old age, dying when eighty-two. Nothing in this volume is more engaging than the charming correspondence of its subject with the magnanimous and noble-souled John Jay, who was the firmest of patriots, while wisely faithful as a friend.

[Joseph Galloway joined the London circle in the latter part of 1778, and became conspicuous for his examination, the next year, before Parliament. An account of this *Examination* (June, 1779) was printed (London, 1779), and it has been edited (Philadelphia, 1855) by Thomas Balch for the Seventy-Six Society. Jones (ii. 109) expresses regarding Galloway the views of those who did not remember with complacency his early Whig alliances. (Cf. Sabine, i. 453.) A considerable number of letters written to Galloway in 1778–79 by his Tory friends in America are printed in the *Hist. Mag.* (v. 271, 295, 335, 356; vi. 177, 204, 237), and indicate how satisfactory stories of the patriots' discomfitures were constantly reaching London. Galloway was a vigorous pamphleteer; and in such tracts as *Letters to a Nobleman on the Conduct of the War*, which passed through several editions, he earnestly represents that the colonies could have been subdued by competent generals, acting with that loyal majority of the people which actually existed, as he always held. Other pamphlets of his, in which, with his usual vigor, he expressed these and similar views, were *Cool Thoughts on the Consequences to Great Britain of American Independence* (1780); *Letters from Cicero* [Galloway] *to Catiline the Second* [Fox], *with Corrections and Explanatory Notes* (1781), a fierce onslaught on the opposition; *Fabricius, or Letters to the People of Great Britain on the Absurdity and Mischief of Defensive Operations only in the American War* (1782); and *Political Reflections on the late Colonial Governments* (London, 1783).

There were various meetings of the loyalists in London in July and August, 1779, of which the MS. records are noted among the Chalmers Papers in Thorpe's *Catal. Supplement* (London, 1843, no. 626). There are copies of them, with the names of those present and their address to the king, in the *Sparks MSS.*, no. liii. About the same time the results of a meeting in Newport, R. I., was published as follows: *Declaration and Address of his Majesty's Loyal Associated Refugees, assembled at Newport, Rhode Island* (New York, Rivington, 1779). This was reprinted in London, with some omissions, in 1782, when the editor said that the original edition had a very extensive circulation through the colonies, notwithstanding the endeavors of Congress to suppress it (Rich, *Bib. Amer. Nova*, London, 1835, p. 305). An interview of a Pennsylvania loyalist, Samuel Shoemaker, with the king is described in the *Penna. Mag. of Hist.*, ii. 35. — Ed.]

cided often on partial grounds of individual patronage. The Board of Treasury, at the nomination of Lord Shelburne, appointed two members of Parliament a committee "To inquire into the cases of all the American sufferers, both of those who already derive assistance from the Publick, and of those who were claiming it." The commissioners, in the final statement which they made in the beginning of the year 1783, say that they had summoned before them all the 315 beneficiaries on the list, and that they had kept in abeyance the claims of 56 of them who did not appear. The list was further reduced by dropping from it the names of 25 more, who did not answer to the description of persons intended for such relief. Of the 234 persons left, 90 had reduced and 10 increased allowances. Up to the June following more names had been added to the list, and the amount divided was £43,245.

It was now, when a very large increase of the burden was to be looked for, that government began very naturally to contemplate how it could be relieved. Of course the suggestion would present itself whether it could not wholly or in part be shifted on the enfranchised colonies, so far at least as their sense of justice might mollify their animosity. The final abandonment of the sufferers by the British government has been reproached in the severest terms as ungrateful, and involving the meanest breach of plighted faith. The government was charged with abandoning them in the stipulations of the treaty, and then, as a poor alternative, making but grudging doles to some of them afterwards in a way humiliating to them. What grounds there may have been for these charges, which found their notoriety in a batch of indignant pamphlets and satirical broadsides,[1] must be left for impartial judgment after an array of the facts. As has just been said, the British government had reason for keeping this subject in mind in the negotiations for the peace, so it was not to be taken by surprise on the one hand, nor to be oblivious of its obligations on the other. Congress, as the other party, with its constituency, had also its own views about the exiled loyalists and their due retribution. The commissioners of both sides, meeting in Paris, had received instructions for dealing with this subject, but these instructions were radically discordant. The British commissioners repeated the obligations under which their government lay to the loyalists, and required that stipulations should be made accordingly. Congress had instructed its agents to make no engagements to remunerate the loyalists, unless balanced by a covenant of the British government to make reparation for all the property destroyed by its soldiers and agents here.[2] Messages passed frequently between Paris and London on this critical question. It is agreed on all sides that the American commissioners exercised more acuteness and calm resolve, while their associates were timid and yielding. The result reached would seem to confirm this judgment.

The assumption by the ministry on this question appears in the following, in the instructions of Lord Shelburne to Commissioner Oswald in

[1] [These writings and others that followed extended over a long series of years: *Observations on the peace and its effects on the Loyalists, March 3, 1783*, — among the Van Schaack papers in the *Sparks MSS.*, no. lx.; *Observations on the fifth article of the Treaty of Peace, and on a judicial inquiry into the merits and losses of the American loyalists. Printed by order of their agents* (London, 1783); *Directions to the American loyalists in order to enable them to state their cases, by a loyalist* (London, 1783); *The case and claim of the American Loyalists impartially stated. Printed by order of their agents* (London, 1783). A broadside *Summary Case of the American Loyalists* is given in *Jones*, ii. 647; Joshua King's *Thoughts on the difficulties and distresses in which the peace of 1783 have involved the people of England* (London, 1783, six eds.; Sabin, ix. 487). Various papers are in the *Sparks MSS.* (no. v. — 1784–88), formerly belonging to George Chalmers. Some of the loyalists of the Southern States fled to Florida, and at the peace were forced by the Spaniards to leave the country. They then employed Mr. John Cruden, president of the Assembly of United Loyalists, and lately the commissioner of sequestered estates in Florida, to attend to their interests, and he printed at London, in 1785, *An address to the Loyal part of the British Empire*, in their behalf (Sabin, v. 17,720). In 1786, the *Laws of the State of New York in force against Loyalists* were reprinted in London (Sabin, x. 39,417). In 1787, James De Lancey petitioned Parliament against the cause of the commissioners (Sabine, 1st ed., p. 246, wrongly dated 1778, and followed by De Lancey in *Jones*, ii. 657). Franklin (*Works*, x. 324) was doubting why Parliament should relieve the king of the indemnification he owed the loyalists. Galloway, in 1788, issued *The claim of the American Loyalists renewed and maintained upon incontrovertible principles of law and justice*. In 1789, there was published in London an *Abstract of the laws of the American States now in force relative to debts due to Loyalists subjects of Great Britain*. As late as 1816, we find the *Case of the uncompensated American Loyalists as laid before Parliament.* — ED.]

[2] In a very forcible letter written to Dr. Franklin by Robert R. Livingston, from Philadelphia, Jan. 7, 1782, he intimates that Great Britain will intercede "in favor of their American partisans who have been banished the country, or whose property has been forfeited." He speaks of the danger and inequity of any such leniency, and adds that it would cause general dissatisfaction and tumults here, where there were so many bitter remembrances of them (Sparks's *Franklin*, ix. 139).

May, 1782: "That an establishment for the loyalists must always be on Mr. Oswald's mind, as it is uppermost in Lord Shelburne's, besides other steps in their favor to influence the several States to agree to a fair restoration or compensation for whatever confiscations have taken place." The remarks which Dr. Franklin wrote down, on reading those words, substantially cover the views which he and, as he believed, his countrymen had on the subject: "As to the loyalists, I repeated what I had said to him when first here, that their estates had been confiscated by the laws made in particular States where the delinquents had resided, and not by any law of Congress, who, indeed, had no power either to make such laws, or to repeal them, or to dispense with them, and therefore could give no power to their commissioners to treat of a restoration for those people; that it was an affair appertaining to each State; that if there were justice in compensating them, it must be due from England rather than America;[1] but, in my opinion, England was not under any great obligations to them, because it was by their misrepresentations and bad counsels she had been drawn into this miserable war. And that if an account was to be brought against us for their losses, we should more than balance it by an account of the ravages they had committed all along the coasts of America." Dr. Franklin adds: "Mr. Oswald agreed to the reasonableness of all this, and said he had, before he came away, told the minister that he thought no recompense to those people was to be expected from us."[2]

The fifth article of the treaty was in these words: —

"That Congress should earnestly recommend to the Legislatures of the several States to provide for the restitution of all estates, rights, and properties which had been confiscated, belonging to *real British subjects*, and also of the estates, rights, and properties of persons resident in districts in the possession of his Majesty's arms, and who had not borne arms against the said States. And that persons of any other distinction should have liberty to go into any part of the said United States and there remain for twelve months, unmolested in their endeavours to obtain the restitution of their estates, which might have been confiscated; and that Congress should earnestly recommend to the several States a reconsideration and revision of all laws regarding the premises, so as to render said laws perfectly consistent, not only with justice and equity, but with that spirit of conciliation, which on the return of the blessedness of peace should universally prevail. And that Congress should also earnestly recommend to the several States that the estates of such last-mentioned persons should be restored to them, they refunding to the possessors the *bonâ fide* price which had been paid for the purchases after the confiscation.

"And it is agreed, That all persons who have any interest in confiscated Lands, either by Debts, Marriage Settlements, or otherwise, shall meet with no lawful Impediment in the Prosecution of their just Rights."

The sixth article of the treaty makes further interest in behalf of the loyalists, as follows: —

"That there shall be no future Confiscation made, nor any Prosecutions commenced against any Person or Persons, for or by Reason of the Part, which he or they may have taken in the present War; and that no Person shall on that Account, suffer any future Loss or Damage, either in his Person, Liberty, or Property; and that those who may be in Confinement on such Charges, at the time of the Ratification of the Treaty in America, shall be immediately set at Liberty, and the Prosecutions so commenced discontinued."[3]

[1] [The English historians have not been always as ready to see the bearings of the case as Massey (*England*, iii. 135), who says: "The claims of the loyalists were undeniable; but they were claims upon Great Britain, not upon the American States." — Ed.]

[2] Sparks's *Franklin*, vol. ix. 314, etc. Later on, in a letter to this commissioner, who had again proposed the subject, Dr. Franklin, under date of Nov. 26, 1782, states his views on the demand in behalf of the loyalists judicially, and with the utmost candor and decision. He also informs Mr. Oswald that Congress had been anticipating any measure having in view the relief of the loyalists, by an effort to reach some estimate of the mischief they had done here, with a view to offset their claims. Congress, in Sept., 1782, had resolved that their secretary of foreign affairs should obtain, for transmission to their agents abroad, "authentic returns of the slaves and other property which have been carried off or destroyed in the course of the war by the enemy," and that the Assembly of Pennsylvania had passed a bill for pursuing the inquiry. The calmness, fullness, and force of this long letter of Franklin might of itself have precluded any further entertaining of the subject. The burning of Charlestown, of Falmouth, of Norfolk, of New London, of Fairfield, of Esopus, etc., and of hundreds of barns, with the ravages of territory for hundreds of miles, would have swollen to an account which Britain would shrink from facing. (Sparks's *Franklin*, ix. 426–433, 440. Cf. Wells's *Sam. Adams*, iii. 182.)

[This asking of the United States to compensate the loyalists seems to have been matched in effrontery, if Curwen (p. 428) be believed, by the mission, after the peace, of Nathaniel Gorham, of Charlestown, Mass., to London, "to obtain a benevolence for the sufferers at the destruction of that town, June 17, 1775, by the king's troops." — Ed.]

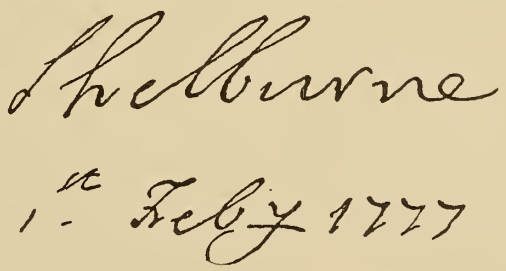
[3] The treaty is given in Jones, ii. 664, and elsewhere. In the third volume of the *Life of William, Earl of Shelburne*, etc., by Lord Edmond Fitzmaurice (London, 1876), will be found very important information of the

It thus appears that the British commissioners committed their government to a stipulation that the demands on its late colonies for reparation to the loyalists should rest with Congress, "earnestly recommending" measures of relief to the legislatures of the thirteen States. This was the only alternative to the direct assumption by Congress of obligations which the commissioners frankly affirmed did not belong to and could not be assumed by Congress. Dr. Franklin felt assured, and privately at the time avowed his belief, that this "recommending" of Congress would prove a nullity. A pertinent question arises whether the British commissioners were cajoled or tricked by the ingenuity of their associates in this device. It is evident that they expected that the stipulation would be more effectual for the benefit of the loyalists than it proved to be. It is none the less true that when the wretched exiles in London learned that their wrecked fortunes rested only on so shadowy a prospect of relief, they felt themselves mocked and abandoned. Members of both houses of Parliament expressed their indignation at this breach of national honor.[1] But, on the other hand, Congress did not escape the lash of censure for what was charged as an evasion of a real obligation committed to it by its agents.

Congress did, in terms, make this "earnest recommendation" to the States.[2] But the futility of it came with a degree of surprise to the British government when lack of power to enforce it was assigned as the reason for its nullity. Nor is it wholly strange that among the reasons assigned by Britain for the retention of the Western posts so long after the agreement to surrender them was this of the stratagem played by Congress. The party which the British government had heretofore recognized had been, not legislatures, but Congress, — long an illegal, now a legal body. This, they could see, had been the effective agency of the rebellion. It was by the "recommendations" of Congress that resistance had been organized, that levies had been raised, generals and a board of war commissioned, loyalists outlawed; and by these same "recommendations" all public moneys had been gathered and a currency established. It was by this same "recommending" Congress that their commissioners were jointly negotiating with British commissioners a treaty of peace. How came this power of Congress through "recommendations," which had since 1774 been supreme, to have become utterly disabled by the triumph of its own cause in 1783?[3]

After Congress had ratified the Articles of

especial attention given by the British ministry to the claims of the loyalists. Lord Shelburne, afterwards Marquis of Lansdowne, as Secretary of State even before these negotiations were opened, had received a friendly and tentative letter from Dr. Franklin, in Paris. They had been long and intimately acquainted. Franklin had emphatically affirmed that he could make no covenant for the indemnification of the loyalists, since it was by the State governments, not by Congress, that the banishment and confiscation acts had taken effect. It is very evident, however, that, beside this avowed reason, Franklin's own private feelings put the loyalists wholly out of his sympathy, and that he was content to leave them to their fate. Shelburne did more than any other of the king's friends or opponents to persuade — we can hardly say to reconcile — the monarch to the recognition of the independence of the colonies. From first to last, Shelburne had most strenuously opposed the severance, and, even in the consummation, he believed and affirmed, as sadly and as plaintively as did the king, that the glory of Britain had been dealt a fatal blow. All the more earnest and persistent, therefore, was Shelburne to keep covenant with the wretched band of loyalists. This matter took precedence, in his mind, of all the other interests of the fisheries, of boundaries, and the cession of territory.



1 Cf. Ryerson's *Loyalists of America*, ii. 159, 166; Lecky, iv. 285.

2 [See Jones, ii. 242, 497, 669; Sparks's *Franklin*, ix. and x.; Fitzmaurice's *Shelburne*, iii. 245. — Ed.]

3 It might have been called to remembrance, however, that intercession by Congress in behalf of Tories had not been as effective as some of its other appeals. When the British evacuated Philadelphia in 1778, Congress had made an urgent but vain appeal to its constituents to repeal some of their acts against the Tories, and to restore some confiscated property. Dr. Franklin, in his work as a negotiator, had proposed — perhaps jocosely, as an article in the agreement — "that his Britannic Majesty will earnestly recommend it to his Parliament, to provide for and make a compensation to, etc.," all merchants, shopkeepers, slave-owners, farmers, etc., for all losses by the British troops (Sparks's *Franklin*, ix. 440). Mr. Adolphus gives frank expression of his mind on this point: "The Congress literally fulfilled the terms of the provisional articles, by voting a recommendation of the loyalists in the very words of the treaty: but the manner of this cold recommendation was essentially different from those ardent recommendations which in the beginning of the contest impelled the

Peace, January 14, 1784, it made proclamation of its "recommendation," according to the fifth article. If the loyalists still remaining here had any expectations of relief from it, their patience was tried by the long delay in issuing it. Sir Guy Carleton wrote earnestly to Congress and to the governor and legislature of New York, pressing for action in behalf of the loyalists, as the crowds of them on his hands to be provided for delayed his evacuation of the city.[1]

colonists to war against the parent state. It was of course disregarded, and the care of providing for its meritorious objects devolved on the mother country" (*History of England, from the accession of King George the Third*, etc., by John Adolphus, iii. 587).

[1] A series of very interesting original documents is given in the *Manual of the City of New York*, 1870, pp. 772–845. In the correspondence following upon the preliminaries of peace between the British and the American commanders and other officials, the first conflict of opinion arose upon the clause in the seventh article which forbade the "carrying away negroes or other property of the American inhabitants." It was known that many fugitive slaves had already been removed, and that many more were likely to be. When Gen. Carleton was challenged on this point, he pleaded that large numbers of these runaways had been drawn to the city by the proclamations of his predecessors, and that protection had been pledged to them. He could not believe, nor would he suppose that Washington would assume, that the British negotiators would covenant that such slaves should be given up to their former masters to be punished, perhaps put to death. The only course he could pursue was to put the case, with name and former owner of each removed slave, on record for future settlement. He regarded these slaves as made free.

Another annoyance for the patriots, which aggravated the hostility to the loyalists and delayed the evacuation, was from another source. Very large numbers of persons and families, owning homes and other property in the city, had hurriedly abandoned them on its occupancy by the British, and had been wanderers for six years in the country around. They were, of course, impatient to return. Their houses and property were in possession of the lingering Tories, who, knowing that they must pass into exile, did not wish to leave empty-handed. Boards of commissioners were appointed by Carleton for settling debts and claims, and for preventing further outrages in the defilement or destruction of places of worship, etc. Full pardon was proclaimed to all Hessian deserters who would come in to the lines to be embarked. This was a shrewd device, for King George was answerable for them, at so much a head, to their petty princes. Meetings of loyalists were called by agents and shipmasters, to arrange for transportation according to their preferences of destination, and the journals record their departure in bodies of thousands. Benevolent people made contributions for the most destitute. Still, the evacuation being delayed month after month, impatience and rancor increased. Elias Boudinot wrote from Philadelphia to Franklin, in Paris, in June, 1783: "You will receive herewith a number of our late newspapers, in which are inserted many resolves, associations, etc., from all parts of the country, which I earnestly wish could be kept out of sight. But the truth is, that the cruelties, ravages, and barbarisms of the refugees and loyalists have left the people so sore that it is not yet time for them to exercise their good sense and cooler judgment. And that cannot take place while the citizens of New York are kept out of their city, and despoiled daily of their property, by the sending off their negroes by hundreds in the face of the treaty." Carleton wrote to Boudinot, in August, 1783: "The violence in the Americans, which broke out soon after the cessation of hostilities, increased the number of their countrymen to look to me for escape from threatened destruction: but these terrors have of late been so considerably augmented that almost all within these lines conceive the safety of both their property and of their lives depend upon their being removed by me, which renders it impossible to say when the evacuation can be completed. Whether they have just ground to assert that there is either no government within your limits for common protection, or that it secretly favors the committees in the sovereignty they assume and are actually exercising, I shall not pretend to determine; but as the daily gazettes and publications furnish repeated proofs, not only of a disregard to the Articles of Peace, but as barbarous menaces from committees formed in various towns, cities, and districts, and even at Philadelphia, the very place which the Congress had chosen for their residence, I should show an indifference to the feelings of humanity, as well as to the honour and interest of the nation whom I serve, to leave any of the loyalists that are desirous to quit the country a prey to the violence they conceive they have so much cause to apprehend."

Washington reserved the expression of his private sentiments on "the violent policy" adopted against the loyalists, as it was not for him in his military character to dictate differently. The British began to realize that not only State legislatures, but towns and committees, recognized but slender functions in the Congress. The return of the transports that had carried off the loyalists had to be waited for in order that the army and its impedimenta might be removed. The American flag was not allowed to float in the harbor of New York. The confiscation acts which followed on the removal of the Tories, and the embarrassments thrown in the way of collecting debts and disposing of business affairs, bear evidence of the intense animosity and vengeful rage which had been inflamed by all these delays. Some Tories who had made themselves obnoxious, and who hoped to protect themselves from the grudges of merely private enemies, ventured to remain, seeking concealment and privacy, thinking the tempest would soon subside. These, according to their social station, met with degrees of rough treatment, occasionally protected by strong friends with good standing upon the popular side,

Not till after the evacuation did the proclamation of Congress reach the governors of the States, and through them the legislatures. But neither Congress nor the legislatures urged the "recommendation," or took any measures to enforce it. The coolness and indifference of the former body were admirably imitated in the latter bodies.[1]

Two reasons of the greatest weight, under the time and circumstances, made an appeal in behalf of "more malignant and mischievous enemies of their country than its foreign invaders" a bitter provocation. First, their whole course was held in irritated remembrance. The patriots kept also in mind that the British government had itself, so to speak, created the Tories, before they had been recognized by the patriots; and it had assumed their cause and promised them protection, while in turn this assurance had made them arrogant. This state of feeling, opening the relations between the Tories and the patriots, ran on all through the stages of the strife, with its natural aggravations. There are no epithets in the language expressive of rage and detestation which were left unused in heaping scorn upon the Tories. Washington, in writing to his brother, John Augustine, about the thousand Tories which Howe took away with him from Boston in March, 1776, says that they had publicly declared "that if the most abject submission would have secured their peace they never would have stirred." In another letter the general wrote: "All those who took upon themselves the style and title of government men in Boston, in short, all those who have acted an unfriendly part in this great contest, have shipped themselves off in the same hurry, but under still greater disadvantages than the king's troops, being obliged to man their own vessels, as seamen enough could not be had for the king's transports, and submit to every hardship that can be conceived. One or two have done, what a great number ought to have done long ago, — committed suicide. By all accounts, there never existed a more miserable set of beings than these wretched creatures now are."[2] In an intercepted letter of John Adams, written in Amsterdam, Dec. 15, 1780,[3] he says that the Tories, as he had recommended at first, should have been fined, imprisoned, and hanged. He adds: "I would have hanged my own brother had he taken a part with our enemy in the contest."[4] Under such a state of feeling, no words need be added to show how inopportune was a "recommendation," however earnest, in their behalf, addressed to our legislatures.

Another reason of utmost force, to the same effect, existed in the condition of the colonists themselves at the close of hostilities. It would be difficult to exaggerate their exhaustion under the burden of debts and a worthless currency. Indeed, not from lack of patriotism, nor lack of the just regards of citizenship and respect for law, but in sheer bewilderment and desperation, the people in many places were in a state of anarchy, breaking into acts of rebellion which only methods of firmness and gentleness suppressed. To obtrude upon a people

more often the sport of groups of indignant patriots. John Jay, writing from Spain, strongly expressed his disapprobation of some of the severities of the confiscation acts. Within a few years these were relaxed, with degrees of favor in some individual cases, and to some extent in their general operation.

[Belknap writes, April 25, 1783 (*Belknap Papers*, 373 (9)): "I am sorry to see the fiery spirit against [the Tories] break out so suddenly in a Boston town-meeting, before Congress have performed the engagement of the treaty and the States have deliberated upon it." Some of the gentler feelings were also conspicuous in Theodore Sedgwick, Nathaniel Greene, Alexander Hamilton, and others. Cf. *Life of Timothy Pickering*, vol. ii.; McMaster's *United States*, i. ch. 2; Morse's *Hamilton*, i. 148. — Ed.]

[1] [The proceedings in the New York Assembly are recorded in De Lancey's notes to Jones (ii. 492), and that editor calls them "nefarious" and done "in bad faith," and in violation of treaty obligations. The legislature would seem, however, to have reasoned honestly in making no optional restitution to loyalists as long as no restitution was even hinted at for the losses of the patriots. — Ed.]

[2] *Works*, iii. 343.

[3] *Annual Register*, 1780.

[4] I do not know whether Mr. Adams ever denied the authenticity of that letter. In Elkanah Watson's *Memoirs of Men and Times of the Revolution*, he records that, spending a Sunday in Birmingham, during the war, with the refugee Judge Peter Oliver, of Massachusetts, the judge told him "that the American Tories and refugees in England dreaded Mr. Adams more than any or all other men in the world." Mr. Watson afterwards reported this remark to Mr. Adams, drawing from him a letter, dated Dec. 16, 1790, in which, while admitting substantially the strength of his feeling against the loyalists, he thinks his hatred of them may have been popularly exaggerated, as "there were some forged letters printed in my name in the London newspapers, breathing vengeance against that description of people, which was never in my feelings nor consistent with my principles" (p. 158). Mr. Watson was a guest in Birmingham of Mr. Green, brother-in-law to the Earl of Ferrers. He records that Mr. Green gave a supper to the Americans in the city. "There was about the board twenty-five besides myself, and I was the only avowed rebel in the group. It was agreed that they might talk tory, whilst I should be permitted to talk rebel." This was in the autumn of 1782.

thus burdened the claims of those who had been the allies of their foe was simply preposterous. It was urged, as a ground for some relaxation of bitterness, that in England those who had stood out against government suffered no indignities nor penalties. They had been sharply censorious, and even abusive, giving warm sympathy to rebels, while the friends of government here were so violently outraged. But the radical difference in the relation of parties lay in this: that the opposition in Parliament, having borne the temporary penalty for their free speech, came at last to represent the final judgment of the nation.[1]

As soon as the exiles had satisfied themselves of the inevitable issue of the struggle, and even before the peace, many of them took measures, by correspondence and petitions, to prepare for their return and for some restoration of their rights and property. Those of them who had merely temporized, and then had timidly abandoned their homes, might hope for a degree of leniency. Many of these exiles were parted from wife and children. Many of them had longing memories of happy homes and fair estates. There is much of pathos disclosed in the journal and letters of Gov. Hutchinson in England, filled with love and yearnings, and for a time with confidence of his return for peaceful days. He instructs his son, still remaining in Boston, about the construction in Milton of a family tomb, and the removal to it from a former resting-place of the remains of his wife. He wrote: "I had rather die in a little country farm-house in New England than in the best nobleman's seat in Old England." There is something piteous on many of the pages of poor old Judge Curwen's journal in England, when he marks his recurring birthdays, with but rare letters from his wife at Salem. He lived in the country for a while on twenty guineas a year. His wife wrote to him in 1777 that she had been obliged to pay ten pounds sterling for a substitute for him in the American army. Glad was he in the same year to receive at the Treasury, through the interest of his friend and fellow-exile Judge Sewall, a present of a hundred pounds, and a pension of the same amount while the troubles lasted. Of the same melancholy tenor are the letters of Peter Van Schaack, a perfectly harmless refugee from New York, to his friend, the noble and sturdy patriot, John Jay. The pages, so embittered and vengeful, of the *History of New York during the Revolution*, by the refugee Judge Jones, have in them much more spicy matter.[2]

The plea of the more manly of the exiles rested on an avowal of principle. As their preferred designation of "loyalists" implied, they had simply stood for established law and order, as the only safeguard for all the rights of all the people. While British sovereignty and rule had sway here, they recognized it, for to oppose it was rebellion and anarchy. But when Britain yielded her authority, then the States rightfully acceded to it, and so the former recusants might now become equally loyal citizens. Against this plea stood the resolution of the stern and triumphant victors. They were in no mood for mercy. They had losses and burdens enough of their own to occupy their minds, and must leave the refugees, however penitent, to their own retribution.

Occasionally we meet discussions of this sub-

[1] Innumerable extracts might be quoted — many of them familiar by frequent repetition in our histories — from the speeches of opposition members, stopping short of treason in spirit and language, only under the protection of privilege. In the debate in the Commons, March 15, 1782, Onslow, representative from Guilford, accused the opposition leaders as the principal instruments in dissevering America from her allegiance to Great Britain. He said: "General Washington's army has been called by members of this House our army, and the cause of the rebels has been denominated the cause of freedom. Every support has been given the Americans, who have placed their confidence in the encouragement extended to them within these walls. Franklin and Laurens are here made the subjects of daily panegyric, and the weak parts of our interior government have been exposed or pointed out to the rebels. It has even been reported, and I believe it is true, that information has been transmitted from hence to the court of Versailles" (Wraxall, ii. p. 228).

[2] [This book of Judge Jones is the most valuable expression which we have of the uncompromising spirit and unbalanced judgment of the over-ardent Tories. Jones was for awhile a prisoner in Connecticut, and wrote his narrative in England just after the close of the war. It remained unprinted till 1879, when it was issued in two stout octavos, with extended notes, by Edw. F. De Lancey, by the New York Hist. Society. The preface and introduction tell the story of the transmission of the manuscript. Judge Jones never returned to America, though the act of banishment affecting him was reversed in 1790 (*Hist. Mag.*, vol. ii.; Johnston's *Observations*, 57). The judge's temper, well expressed in the cynical countenance which in an engraving faces the title of his book, gains him no sympathy from Whig or Tory, both of whom he scolds and abuses. His implacable snarliness runs so often into irony, that we can hardly tell whether he writes what he means, or means what he writes. These characteristics seriously detract from the value of the narration as an historical authority. His assertions are sometimes too wild to be seriously considered; but Henry P. Johnston has thought it worth while to analyze his evidence in *Observations on Judge Jones's Loyalist history of the American revolution. How far is it an authority?* (New York, 1880.) — Ed.]

ject looking back to precedents after the close of a civil war. But perfect or even proximate parallelism is not found between our own and any other case. Least of all can we bring in for comparison or illustration the expulsion of the Moors from Spain, or of the Huguenots from France. With somewhat more of relevancy in the debates on the provisional articles, the conduct of Philip III of Spain was often made a ground of censure by its contrast with the action of the British ministry in failing to secure immunity for the loyalists.[1]

In view of the tentative movements of the refugees for leave to return and for restitution, the assembly of Virginia, before the ratification of the treaty, had unanimously resolved "that all demands or requests of the British court for the restoration of property confiscated by the States were wholly impossible; and that their delegates should be instructed to move Congress that they should direct the deputies for adjusting peace not to agree to any such restitution." The New York assembly resolved: "That as, on the one hand, the scales of justice do not require, so, on the other, the public tranquillity will not permit, that such adherents who have been attainted should be restored to the rights of citizens; and that there can be no reason for restoring property which has been confiscated or forfeited."

The most unrelenting of all the foes to the loyalists was Sam. Adams, of Massachusetts. In 1778 the assembly was found to contain some members of a tolerant spirit, if not even of Tory proclivities. Through the solicitation made by some prominent refugees from Boston, who had been carried by Gen. Howe to Halifax at the evacuation of the town, that they might be allowed to return, the subject came before the assembly. Adams sturdily resisted any such indulgence to men who "had deserted the cause of liberty in her hour of greatest need." He hated not only their principles, but also their "laxity of manners." In 1780, he procured that advice should be given by Massachusetts against any leniency to Tories in adjacent States. So when the "recommendation" in favor of the loyalists came before the assembly, Mr. Adams was unyielding in withholding from the Tories any rights of citizenship or restitution. In 1784, when passions were somewhat cooled, he acquiesced in some mitigation of severities in the acts of confiscation of individual estates.[2]

It is curious to note that while the fifth article in the treaty had a specious look of weight, as soon as the knowledge of it came abroad it was taken for exactly what it proved to be, a mere nullity. It is to the honor of the realm that its inadequacy, its meanness even, was indignantly and contemptuously exposed by high-minded men in both Houses of Parliament, who spared no rebuke or invective against the ministry and their agents for this affront to the honor of the realm, in the sacrifice of the most injured class of its subjects. The loyalists, in the appeal they had now to make in their own behalf, could not have had a better ground or a more cogent reinforcement than they found in the remonstrances and appeals of their sympathizers in Parliament. In the House of Commons, Mr. Wilberforce, Lord North, Lord Mulgrave, Mr. Burke, Mr. Sheridan, Mr. Norton, Sir Peter Burrell, Sir W. Bootle, and Mr. Macdonald; and in the House of Lords, Lords Walsh-ingham, Townshend, Stormont, Sackville, and Loughborough, exhausted the vocabulary of contempt and humiliation on the nation's breach of honor, and of commiseration for its wretched victims.[3] Feeble and spiritless were the rejoinders of the ministry to these invectives. Lord Shelburne admitted that the loyalists had been thus weakly left to a very slender chance of relief "from the unhappy necessity of public affairs, which induced the extremity of submitting the fate of their property to the discretion of their enemies." "I have but one answer to give the House," he said: "it is the answer I gave my own bleeding heart. A part must be wounded

[1] Philip, on concluding a truce with the United States of Holland in 1609, secured for his adherents the retention of their estates, which were afterwards confirmed to them and their heirs by the Treaty of Münster in 1648.

[2] Wells's *Sam. Adams*, vol. iii. pp. 48, 98, 181–2–3. [The mitigation of asperities towards the Tories which Hamilton sought to produce in New York was likewise aimed at by Patrick Henry in Virginia (M. C. Tyler's *Patrick Henry*, p. 258). Hamilton entered upon the defence of Tory clients, proceeded against by reinstated patriots, under the new Trespass Act, for having occupied houses in New York during the British occupation, and lent his aid, in a series of papers signed "Phocion," to mitigate the asperities of treatment dealt out to loyalists; and he got the better in argument of Isaac Ledyard, who replied as "Mentor." Cf. McMaster, ch. 2, on the treatment of the Tories after the war, with references particularly to newspapers. — Ed.]

[3] "What," said Lord North, "are not the claims of those who, in conformity to their allegiance, their cheerful obedience to the voice of Parliament, their confidence in the proclamation of our generals, invited under every assurance of military, parliamentary, political, and affectionate protection, espoused, with the hazard of their lives and the forfeiture of their properties, the cause of Great Britain?" (*Parliamentary History*, xxiii. 452.)

that the whole of the empire may not perish. If better terms could be had, think you, my lord, that I would not have embraced them? I had but the alternative either to accept the terms proposed or to continue the war."[1] This was at least frank and manly. But the lord chancellor, making his own honor the test of the good faith of others, professed to believe that the "recommendation" from Congress would be effective for the loyalists. The alternative would be that "Parliament could take cognizance of their case, and impart to each suffering individual that relief which reason, perhaps policy, certainly virtue and religion, required." Here was a direct intimation of the burden or the duty which was now to be assumed by the nation. Lord Shelburne put the argument of thrift and economy, that "without one drop of blood spilt, and without one fifth of the expense of one year's campaign, happiness and ease can be given to the loyalists in as ample a manner as these blessings were ever in their enjoyment." Here, plainly, compensation was suggested. How far short it came of full restitution the event will show.

That whatever relief the loyalists were to receive must come from the British government, was soon put beyond all doubt by the return to England of some disappointed and embittered refugees, who had gone to America to secure the restitution of their estates. Imprisonment and banishment were the alternatives presented to them. Parliament was thus made to realize the folly of sending the abandoned loyalists to seek redress of exultant America. Parliament had not covenanted that she would compel the colonies to make good their losses, whatever might be the result of the war. But government had pledged its good faith and its resources to that end. A point of casuistry was suggested. Parliament, it was said, had by treaty recognized irrevocably the independence of the colonies, but had not recognized the article abandoning the loyalists. By a majority of seventeen, a vote of censure was passed against the commissioners for assenting to that fifth article. The Earl of Shelburne resigned as prime minister, and three months of confusion followed before a new administration came in. It was urged that as government had closed the war for the subjection of the colonists, it might renew it again to secure the rights of the loyal subjects among them. It still held strongholds in America, New York, Charleston, Rhode Island, and the Penobscot. These England might retain, and, with her power on the sea, might hold a threatening position towards the States, which would compel some deference to her demands.[2] Indeed, there were many intelligent observers at the time, the sagacious Dr. Franklin being frank and earnest in uttering his own opinion on the subject, who did not regard the signing of the treaty of peace by Great Britain as carrying with it an assurance that her hostilities would cease. For reasons founded on this apprehension, Dr. Franklin thought it wise and safe to keep out of the country those hated sympathizers with its foes, who, if scattered over it, might be mischievous in their influence.[3]

Meanwhile the refugees in England vigorously took their interests into their own hands. They formed themselves into an association, and organized an agency of delegates, composed of one from each of the thirteen colonies, to communi-

[1] There was doubtless thorough sincerity as well as intense mortification in these and in many similar expressions of feeling by friends of the administration as well as by members of the opposition. In all the debates on the provisional articles of peace these expressions are most strongly toned. Burke predicted "the punishments which would be inflicted on the unhappy loyalists, deserted by us, and left under Lord Cornwallis's capitulation to the mercy of the Congress. Their slaughtered remains would be exposed on all the headlands." Lord Nugent said: "If his majesty's ministers have omitted any possible exertion in favor of those unfortunate men, no punishment can be adequate to their crime. Their blood alone can wipe away the stain inflicted on the honor of their country."

[2] That prolific and ingenious writer, Dr. Tucker, Dean of Gloucester, whose successive tracts, issued during the war, boldly advised that the best thing England could do was to rid herself of the colonies, leaving them to themselves, made a very remarkable proposal as the terms of peace were under discussion. One scheme in his *Plan of Pacification* was that the "Republican Americans" should have ceded to them nine of the provinces, while the other four, N. York, the two Carolinas, and Georgia, should be yielded to the loyalists. Britain should govern and protect these, as before, for ten years, after which they should be free to choose for themselves. Dean Tucker's *Cui Bono?* etc. (*Letters to M. Necker.*)

[3] Dr. Franklin's anxiety was deeply engaged in France, at the close of 1783, by the distorted accounts in the newspapers of the dissensions which prevailed in the States, the altercations in town meetings, the backwardness in paying taxes, etc. He wrote as follows to the President of Congress: "With respect to the British court, we should, I think, be constantly upon our guard, and impress strongly upon our minds that, though it has made peace with us, it is not in truth reconciled either to us, or to its loss of us, but still flatters itself with hopes that some change in the affairs of Europe, or some disunion among ourselves, may afford them an opportunity of recovering their dominion, punishing those who have most offended, and securing our future dependence." (Sparks's *Franklin*, x. 38.)

cate by intelligence and petitions with the government. Meetings were held, the aid of the press was improved, and much sympathy was excited. Pamphlets and broadsides stated, with ability of argument and with stress of sentiment, the claims of those who had become dependants upon the nation's justice and benevolence. The arguments adduced by the writers were of great ability and were enforced by a manly spirit. They quoted precedents of cases similar to their own, but, as well they might, they committed their cause to the stoutness of their loyalty under long and very trying sufferings, sustained from the first by pledges of approval and support.[1]

The proposal to Parliament to take action on the subject came from the king through what was known as the "Compensation Act," passed in July, 1783.[2] The bill brought in was "for appointing commissioners to inquire into the circumstances and former fortunes of such persons as are reduced to distress by the late unhappy dissensions in America." Some stress in the debate was laid on the fact that at this stage of the subject the purpose was one of inquiry, not of relief. After ascertaining who were entitled to such relief, subsequent action would be wisely guided. Mr. Fox, by the way, asserted that "he did not at all despair of the United States amply and completely fulfilling the fifth article of the Provisional Treaty." In order that "loyalty" might be the supreme test in the inquiry, the title of the bill, which was passed without opposition, or even debate, was changed for the following: "An Act appointing Commissioners to Enquire into the Losses and Services of all such Persons who have suffered in their Rights, Properties, and Professions during the late unhappy dissensions in America, in consequence of their Loyalty to his Majesty and Attachment to the British Government." The bill hints at efforts still to be made by the king to secure restitution from the United States; it refers to the temporary aid which sufferers had been receiving from the civil list; proposes the appointment of five commissioners to make diligent and impartial inquiry into the case of each claimant, the commissioners and the claimants to be under oath; any of the latter making excessive or fraudulent demands to be liable to exclusion, and any who should corruptly give false evidence should be subject to legal pains and penalties. The time for receiving claims was limited to March 25, 1784, but was afterwards extended. The results reached by the commissioners, with the amounts of proposed grants, were to be reported to the commissioners of the Treasury, and paid by them, in no single case exceeding the sum of two thousand pounds. The commissioners sent for needed information to the agents of the loyalists and others of the class, and were in general gratified with the honor, veracity, and candor exhibited in the results; of course there were a few exceptions to this. Three supplementary acts extended the periods of the commission. The business was finally closed March 25, 1790. The commissioners seem to have been keen and thorough in their work. They sent an agent to the United States, who spent two years there in diligent inquiry and investigation of the whole subject. Up to Dec. 25, 1787, the whole number of claimants had been 2,994, to a gross amount, on the score of losses, of £7,067,858. For various reasons, 269 of the claimants were rejected; and the whole sum allowed was £1,887,548.[3] In general the claimants received a little less than one third of their demands; to this there were but few exceptions. An agent of the loyalists petitioned, though without success, for information as to the reasons for this curtailment, which was a great grievance to the claimants.[4]

[1] The government acknowledged the force of the plea, and assumed its weighty responsibility. The measures adopted were, of course, not without a regard for caution and economy, but were not meanly controlled by such views. While it was realized from the first that full compensation was out of the question, and that imposition and extortionate demands would require some severity of process, it was magnanimously intended that a degree of generosity even, as well as a purpose of justice, should be shown towards those whom the nation had misled to their own ruin.

[2] 23 George III, ch. 80. The act is given in Jones, ii. 653.

[3] [The minute-books, papers and proceedings of the American claim commissioners are in the Public Record Office, together with the reports of Stedman on claims for property destroyed during the American war. —Ed.]

[4] Attendant upon the rigid method of inquisition pursued by the commissioners, in requiring that all the losses of property in the former American provinces which had been incurred by the refugees claiming compensation should be attested and certified by documentary evidence on oath, these claimants had a grievance, which to many of them was very severe and irritating. These losses came largely from the confiscation and sale of houses, farms, and other real estate, goods in warehouses, and debts due to them before the commencement of the troubles, from those who were on the rebel side. The refugees in England, to authenticate their claims, were compelled to open a correspondence with some relative or former friend remaining here, for the purpose of securing kindly aid in receiving the specification of their claims and informing the sufferers of the condition, the alienation, and the present possessors of their property. Where such friendly intervention could not be had, the appeal was necessarily to public authorities, to sheriffs, vendue-masters, etc., who would be quite

Three successive statements were prepared, classifying the loyalists and the nature of their losses, with their claims and the allowances.[1] The Penn family set their losses at near a million pounds. They received half that sum. Dr. Franklin's son, William, the last royal governor of New Jersey, besides a compensation of £1,800 for his losses, enjoyed a pension of £800 till his death in England in 1813. The commissioners must have listened to many a woful tale of sufferings which no money grant could redress. Pains were taken to discriminate the claimants into classes, as those who had been in arms or in service for Britain during the war; those who had been residing as refugees in England; those who, having once come under allegiance to the States, had renounced it for that of the king; and finally, those who, having served on the American side, had afterward served in the British army or navy. The high-minded among the claimants were very sensitive in basing their expectations upon simple right and justice, rather than appear as suppliants for charity or generosity. In all cases where it was possible, claimants had to appear in person, with witnesses, detailed statements, vouchers, and inventories, involving difficulties and delays. There were losses of houses, goods, debts, cattle, crops, wood and timber, and of other possessions; there were starving families and dependants. The complaints at delays and protracted proceedings were grievous and endless. Agents in the United States, Nova Scotia, and Canada investigated the cases of those who were too poor to go to England. The returns from America were of 3,225 claimants for alleged gross losses of £10,358,415. Of these, nearly a thousand were withdrawn or refused, and the gross allowance was £3,033,091.[2] Half-pay to loyal provincial military officers, grants of land, and favors of patronage increased the boon. Mr. Adolphus, with some complacency, pronounces these compensatory provisions for the loyalists by the British government, "an unparalleled instance of magnanimity and justice in a nation which had expended nearly a hundred and sixteen millions in the war."[3]

Till quite recent years, historians and writers, in referring to the severities practised by the States towards the loyalists, in confiscating their estates and banishing them, often under the penalty of death, have expressed themselves strongly on the impolicy and folly of such a course. It was carefully estimated that these expatriated exiles exceeded thirty thousand in number. The far larger portion of them on this side of the ocean went to Nova Scotia, as then including New Brunswick, and to Canada.[4] Very

likely to be lukewarm in such service. There are grievous complaints in the correspondence extant of many such sufferers, whose claims on the British commissioners were to be adjusted by the amount of the losses they could satisfactorily prove that they had incurred here. Some of them had handed in estimates, probably honest in their own judgment, of such losses, which far exceeded the sums to which the attested documents they could procure certified. They complained, consequently, of trickery, fraud, and gross injustice practised towards them here. The real value of their property was underestimated in the sworn invoices sent to them. It was for the interest of those who had purchased confiscated property to depreciate its value. Perishable goods were left out of the account. Fictitious claims were set up by alleged creditors, and debtors concealed or denied their obligations. In a valuable manuscript volume of letters and other papers relating to the family of Sylvester Gardiner, a rich refugee from Boston, belonging to Mrs. Romeo Elton, a descendant, are many documents of a very emphatic character, referring to the grievance in his case. Gardiner had a warehouse with a large collection of valuable drugs and medicines in Boston, which, on the evacuation of the town by the British, were appropriated to the use of the American army. "That thief Washington" is Gardiner's epithet for the rebel general.

[1] These may be found in one of the very elaborate notes by the editor, Edward F. De Lancey, of Judge's Jones's *History of New York during the Revolutionary War* (N. York, 1879), vol. ii. pp. 645–663. The editor credits his matter to a rare work entitled *Historical View of the Commission for Enquiring into the losses, services, and claims of the American Loyalists at the close of the War between Great Britain and her Colonies, in 1783: with an Account of the compensation Granted them by Parliament in 1785 and 1788.* This work, published in London in 1815, was by John Eardley Wilmot, M. P., one of the commissioners. There is a copy in Harvard College library.

[2] This is the estimate made by Wilmot. Lecky, who is careful in his statistical statements, says that "the claimants in England, Nova Scotia, New Brunswick, and Canada were 5,072, of whom 954 either withdrew or failed to establish their claims. Among the remainder about £3,110,000 was distributed" (*Hist. of Eng. in the XVIIIth Cent.*, vol. iv. p. 268. Cf. P. O. Hutchinson's *Gov. Hutchinson*, vol. ii.; and Jones, ii. p. 645).

[3] *The Hist. of England*, etc., iii. p. 588.

[4] There had been a considerable settlement in Nova Scotia by emigrants from Massachusetts, Rhode Island, Connecticut, New York, and Pennsylvania. Governor Lawrence issued a proclamation in Oct., 1758, giving a favorable account of the land, and again on Jan. 11, 1759, enlarging upon the nature of the constitution, the religious liberty to be enjoyed, and the terms of colonization. The tide of emigration set towards Nova Scotia in 1760. When the strife between the older colonies and Great Britain began, some of the early settlers of Nova Scotia openly espoused the cause of their original provinces, and put themselves under their

many of these were men of excellent education for high professional services. The civil courts soon organized in the provinces were presided over by men trained in our colleges, and classmates of some of our foremost patriots. Had they been treated, after the peace, with a degree of forbearance, and allowed to remain in or to return to their homes, they might have proved a valuable class in our communities, cautious and conservative in spirit, in helping us through the seething turmoils in the initiation of our government; whereas, as it used to be said, we had planted an hereditary enemy on our borders, with an entail of bitter animosities, to plot and work against us in any future distractions among us. The far-seeing Dr. Franklin, when first engaging his calm mind upon his work as commissioner, on the terms the United States should exact as conditions of peace, had determined to claim of Great Britain the cession to us of the whole of Canada. Strangely enough, his amiable and compliant friend, the British commissioner Oswald, seemed at first quite disposed to assent to the suggestion. Dr. Franklin had in view the same sort of possible future annoyance to us from England's power close on our borders that was afterwards predicted from the settlements of Tories in the English provinces. These exiles organized an association of "United Empire Loyalists." In the first generation of them, they took pains to keep fresh the memory of their wrongs. They have left on record distressing narratives of the hardships they encountered in flight, in the sundering of family ties, in perilous wanderings in the wilderness, and in planting there their miserable cabins, as a new company of forlorn "pilgrims." It was not at all strange that these exiles in their stern miseries should visit their hate on the new republic and its citizens. So effectually did they do this that their children, trained in the same spirit, with the lament over lost inheritances, have perpetuated the old grudges through a considerable portion of this century.[1] But, happily, the time that has passed during which any considerable harm could have come to us from the entail of those old animosities, has taken from them all their bitterness.[2]

protection; but British authority soon established itself over them. A few trials for treason grew out of this sympathy (*Nova Scotia Hist. Soc. Coll.*, i. 110). A few of these people returned to New England (*Mass. Hist. Soc. Proc.*, iv. 358).

[1] The writer of these pages recalls a very significant incident bearing on this fact. Nearly half a century ago there was published in New York a large and creditable weekly newspaper, specially designed for circulation among English residents here and in the provinces, as its pages were devoted to foreign intelligence. An agent travelled extensively annually, to extend its circulation and to collect its dues. The generous publisher presented his subscribers from time to time a fine engraving. So he had furnished plates of the sovereign, the Duke of Wellington, Sir Robert Peel, etc.; then an engraving of Stuart's Washington went forth to subscribers. On calling at the house of one of these in the provinces, the agent was received by the proprietor with a torrent of opprobrious invectives and oaths, emphasized by the question, "Why did you dare to send me, as if to be hung up to poison the minds of my children, a picture of that ——— rebel?"

[2] In a volume bearing the title *Country Life in Canada Fifty Years ago*, by Canniff Haight (Toronto, 1885), we have a very agreeable account of the reminiscences of a sexagenarian, who was a grandson, on both sides, of refugees from New York after the peace. They settled in the first of the settlements in Upper Canada, near the Bay of Quinté, with other exiles, scattered over a wide wilderness. The writer faithfully portrays their hardships, not without an inheritance of grievances against the new republic for its harsh course towards the loyal subjects of the king; but, happily, his pages are more full of the triumphs of the industry and the virtues of the exiles in securing great prosperity for their descendants.

[The most extensive treatment of the experiences and fate of the loyalists who fled to Canada and the maritime provinces is to be found in Adolphus Egerton Ryerson's *Loyalists of America and their Times, from 1620 to 1816* (Toronto, 2d ed., 1880, in two vols.), in which he traces the development of the spirit of loyalty and the growth of the sentiment of independence and disloyalty from the beginnings of the New England colonies. His view of the founding of Upper Canada by the refugees begins at ch. 39. Speaking of this body, Viscount Bury (*Exodus of the Western Nations*, ii. 344) says: "It may safely be said that no portion of the British possessions ever received so noble an acquisition." See the histories of Canada, and particularly Canniff's *Upper Canada* (1869); George Bryce's *Short History of the Canadian People* (London, 1887, ch. 7); Lemoine's *Maple Leaves*, new series, pp. 127, 283. There are many papers relating to the United Empire Loyalists in the British war office (cf. Brymner's Reports); and the *Catal. of MSS. in Brit. Mus.* (1880), p. 225, shows another collection of papers. New Brunswick was the creation of these refugees. Cf. J. W. Lawrence's *Foot-prints, or Incidents in Early History of New Brunswick, 1783-1883* (St. John, N. B., 1883), and P. H. Smith's *Acadia*, p. 285, etc. An account of the New Hampshire loyalists settling at St. John is in *The Granite Monthly*, x. 109. There is among the king's maps in the British Museum (*Catal.*, ii. 161) a plan of the Passamaquoddy region, showing allotments made in 1784 to loyal emigrants and to members of disbanded military corps of loyalists. There is a letter of Carleton, dated New York, August, 1783 (*Mass. Hist. Soc. Proc.*, October, 1886, p. 74), in which he says he had ordered a spade and an axe to each of the soldiers who intended to settle in Nova Scotia. There are many references respecting the loyalists in

A celebration of the centennial of the settlement of Upper Canada by these exiles took place in 1884. At a meeting of the royal governor, Lord Dorchester, and the council, in Quebec, in November, 1789, in connection with the disposal of still unappropriated crown lands in the province, order was taken for the making and preserving of a registry of the names of all persons, with those of their sons and daughters, "who had adhered to the unity of the empire, and joined the royal standard in America before the treaty of separation in the year 1783." The official list contains the names of several thousands. It was by their descendants and representatives that the centennial occasion referred to was observed. There were, in fact, three celebrations of substantially the same events: one at Adolphustown, on June 16th, which was the date of the landing of loyalists at that point, in 1784; one at Toronto, on July 3d; and one at Niagara, on August 14th. This class of exiles are to be distinguished from those who went by sea to the maritime provinces. The former class had to endure severe hardships in journeys through the wilderness, some with pack-horses, a few driving their cattle, others by stream and lake. They could carry only sparsely any personal effects. Some bands passed to Canada by Whitehall, Lake Champlain, Ticonderoga, and Plattsburg, then southward to Cornwall, ascending the St. Lawrence, and settling on the north bank. Others went from New Brunswick and Nova Scotia up the St. Lawrence to Sorel, where they wintered, going afterwards to Kingston. Most of the exiles ascended the Hudson to Albany, then by the Mohawk and Wood Creek to Oneida and Ontario lakes, by the Oswego River to Kingston and the Bay of Quinté. The portages over which they had to draw their boats and to carry their goods made up more than thirty miles. As these exiles had stood for the unity of the empire, they took the name of the "United Empire Loyalists." In the three celebrations to which reference is made, the lieut.-governor of Toronto, the Hon. J. Beverly Robinson, by name and lineage suggestive of the tragic events on the Hudson, in the treason of Arnold and the execution of André, was the most conspicuous figure. Bishops of the English Church, civil and military officers, and lineal descendants of Indian chieftains of tribes in alliance with England during the war, contributed the oratory of the occasions. It was of the warmest and intensest loyalty to the crown and empire. The speakers gratefully and proudly commemorated their ancestors, and gloried in being their descendants and in maintaining their principles.[1]

Nova Scotia in T. B. Akins's *List of MS. Docs. in the Government Offices in Halifax* (1886), pp. 23, 24, 26, 28. Cf. Murdock's *Nova Scotia*, vol. iii., and L. W. Champney in *Lippincott's Mag.*, xxvii. 391. The movements in the new province, which at one time it was proposed to call New Ireland, were not unaccompanied by some bickerings in the scramble for office among the leading loyalists (*Mass. Hist. Soc. Proc.*, October, 1886, p. 78).

Carleton, in New York, July 28, 1783, authorized Col. Robert Morse, chief of the royal engineers, to make a report on the condition of Nova Scotia (including the region now known as New Brunswick), and in the latter part of 1784 he prepared it. It is printed in Brymner's *Report on the Canadian Archives* (1884, p. xxvii); and he includes (p. xli) the returns of the population, which in these maritime provinces he puts at 42,747, divided as follows: old British inhabitants, 14,000; old French, 400; disbanded troops of the war and loyalists, 28,347, including 3,000 negroes. Brymner's reports also note (1881, p. 15) the memorial of the Cape Breton loyalists in 1785 (1883, p. 114); various papers respecting the loyalists in Canada, from vol. xxiv. of the Quebec series of papers in the Public Record Office (London). In the *Calendar of the Haldimand Papers*, p. 348, in the collection of "Letters to Ministers, 1782–84," there are various papers about the settling of loyalists in Canada. — Ed.]

1 *The Centennial of the Settlement of Upper Canada by the United Empire Loyalists, 1784–1884. The Celebrations at Adolphustown, Toronto, and Niagara. With an Appendix, a List of the U. E. L.* (Toronto, 1885).

[The only considerable monographic treatment of the history of the loyalists has been in Lorenzo Sabine's book, which he was induced to write, in the first instance, from living at Eastport, Me., where he came much in contact with the descendants of those refugees who found an asylum in the neighboring British provinces. When he published his first edition, *The American Loyalists, or Biographical Sketches of Adherents to the British Crown in the War of the Rev.; with a Preliminary Historical Essay* (Boston, 1847), little had been written with any precision on the subject, and he found scarcely anything in print to depend upon beyond the third volume of Hutchinson's *Mass. Bay* — that marvel of temperate recital under the pressure of natural resentment — and the journals of Van Schaack, Curwen, and Simcoe. Sabine in his revised edition changed the title to *Biographical Sketches of Loyalists of the Amer. Rev.* (Boston, 1864, — in two vols.) There are reviews of the book in the *N. Amer. Rev.*, by G. E. Ellis (vol. lxv.) and by C. C. Smith (vol. xcix.); in the *Christian Examiner*, by J. P. Dabney (vol. xliii.); and notices of Sabine's labors in this field in Duyckinck's *Cyclo. of Amer. Lit., Suppl.*, 91, in *Mass. Hist. Soc. Proc.* (xvii. 371), by E. E. Hale, and in *N. H. Hist. Soc. Coll.*, 1876-1884, p. 121, by C. H. Bell. Some data which will supplement Sabine's book are in W. S. Bartlet's *Frontier Missionary*. — Ed.]

CHAPTER III.

THE CONFEDERATION, 1781–1789.

BY JUSTIN WINSOR,

The Editor.

THE main interest of the period we are now considering consists in the two strands of the thread which is woven through all its events, — the growing perception of the inadequacy of the governmental functions of the Confederation, and the increasing desire for the formation of stronger administrative powers in a central department. Long before the Articles of Confederation became operative, in 1781, it had been apparent that no such immature method of government as was contemplated was going to make a nation which could be self-respecting, or even a league which had the power of self-preservation. None knew it better than Washington, who had so often found Congress incapable of supporting him with money or men ; and what Washington knew, those who sometimes heedlessly and sometimes unwittingly hampered him knew just as well. Congress had, indeed, deteriorated very much from the time when the leading men of the country were in its councils. The best men seemed to prefer to serve their States at home, and Washington, with that sharp observation which his position gave him the chance to exercise, had for some time been commenting on this misfortune.[1] Frothingham[2] and others have pointed out how the letter of Hamilton, September 3, 1780, to James Duane,[3] portrays in a masterly way the defects of the Confederation ; and that writer refers to the criticisms on it in Rives's *Madison*,[4] and to the lucid grouping of the evil practices of the States, as set forth in Madison's paper, "The Vices of the Political System of the United States."[5] These early indications of the distrust of the unstable league of the States are also examined by Ban-

[1] Jefferson also was urging it upon the States to send "young statesmen" to Congress, to give them broader views for the coming time.

[2] *Rise of the Republic*, 588.

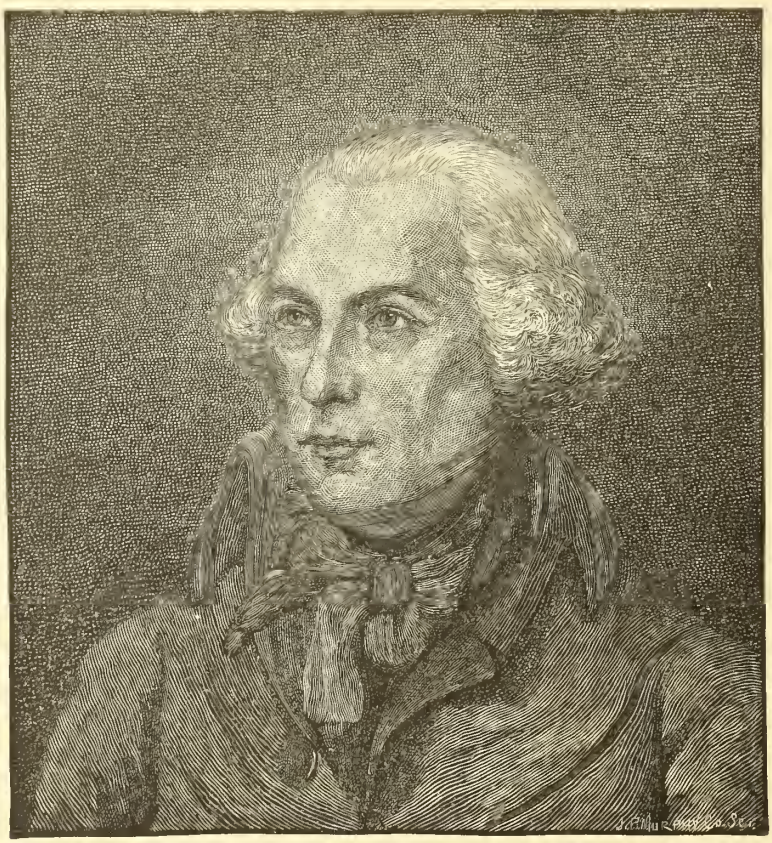
[3] Hamilton's *Works*, i. 150. Cf. Curtis's *Constitution*, i. 351.

[4] i. 306.

[5] Madison's *Writings*, i. 320. There is an abstract of this paper in Rives's *Madison*, ii. 212. The Articles of Confederation, in addition to the places mentioned in Vol. VI. p. 274, can be found in *Secret Journals*, i. ; Lalor's *Cyclopædia ;* Hough's *Amer. Constitutions ;* Hickey's *Constitutions ;* Curtis's *Constitution*, i. 509 ; Lodge's *Hamilton*, vol. ix. ; Lossing's *United States*, 604 ; Cooper and Fenton's *Amer. Politics ;* Houghton's *Amer. Politics*, 57 ; Holmes's *Parties*. Cf. the analysis in *The Federalist*, nos. 15–22 ; Story's *Commentary on the Constitution*, i. 209, 217 ; the theory of the articles in John N. Pomeroy's *Introd. to the Constitutional Law of the U. S.* (N. Y., 1868), p. 41 ; Dr. J. H. McIlvaine in *Princeton Review*, Oct., 1861. Cf. also Blunt's *Formation of the Confederacy ;* Sherman's *Governmental History ;* Prince's *Articles of Confederation.*

croft.[1] Life under the Articles was not, however, without some significant gain, in that at last the free inhabitants of any State had acquired the privileges and immunities of free citizens in every other State; while the bonds of religious disabilities had begun to be severed.[2] Bancroft[3] says of the system, "A better one could not then have been accepted; but, with all its faults, it contained the elements for the evolution of a more perfect union."

In May, 1782, Congress sent committees to the States to set forth the desperate condition of the revenue, and New York, under the urgency of



JAMES MADISON.*

Hamilton and Schuyler, was the first to respond with a recommendation of a convention to revise the existing Articles of Confederation,[4] and to plan methods of revenue; for already Vergennes was complaining that the States were making no adequate provision for meeting the obligations which they were still incurring in their European loans. Pennsylvania

[1] Final rev., vi. 10.

[2] Virginia reached the level of toleration without price in Jan., 1786, using the words of Jefferson in proclaiming it, and the other States came or advanced gradually to this condition.

[3] Orig. ed., ix. 450.

[4] N. C. Towle's *Constitution*, p. 337.

* After a likeness by C. W. Peale, in the rooms of the Long Island Historical Society.

was at the same time threatening, in fact, the dissolution of the Union through a purpose to appropriate the Continental moneys that it might raise. Little Rhode Island, with an obstinacy not wholly unselfish, and disproportioned to her importance, blocked the way to the establishment of a duty on imports. Virginia, having once acceded, now joined her in withdrawing her final assent. Richard Henry Lee was the champion of the retrocession, and it was against him and his followers that Washington and his associates in belief had the fight to make in the coming years.

Washington (March, 1783), from Newburgh, appealed to Governor Harrison, of Virginia, to institute some movement of salvation; and he told Congress, with great frankness and force, that action was not to be delayed in planning some way of securing substantial revenue.

The army, through a commission, asked Congress for justice and money. Congressmen paid themselves, but let the soldiers wait. The minister of finance saw no way, but, left to himself, apportioned a pittance to the soldiers, while Congress set to work wrangling over the ways and means.

Pelatiah Webster, in *A Dissertation on the Political Union and Constitution of the Thirteen United States of North America*,[1] started a discussion by his proposition to have a Congress of two houses, with heads of departments and a federal judiciary. The tract was simply one of those forerunners that are harbingers of a season when projects can ripen.[2]

On April 28, 1783, Congress appointed a committee to consider the resolutions of New York on the calling of a convention. Congress, on one pretext and another, put off the consideration of these New York resolutions. It bestirred itself enough to seek the advice of Washington as to a peace foundation for the army; but, after all, it had no money to put the plan in operation. When at last, in June, 1783, Washington issued a final appeal to the patriotism of the States, and urged the convoking of a constitutional convention, Hamilton took new heart, and introduced some resolutions into Congress, which proved as inoperative as ever.[3]

There was so little interest to secure the attendance of members of Congress that there was no time between October, 1783, and June, 1784, when nine States were in attendance, — the necessary quorum, — to act on the ratification of the treaty of peace.[4]

In November, 1784, Congress discarded an old rule of choosing its president from the several States in succession, and, as if to rebuke the rising demand for a new Constitution, put the most determined enemy of such

[1] Written Feb. 16, 1783, at Philadelphia. In his *Political Essays*, and published separately at the time.

[2] The tract of Noah Webster, two years later, was a more definite expression of the need of a stronger government, — *Sketches of American Policy*, — and Webster also claimed that it was the earliest public announcement of any such project. Cf. Horace E. Scudder's *Noah Webster*, ch. 5, on Webster's political writings.

[3] Morse's *Hamilton*, ii. 158, and other lives of Hamilton.

[4] Franklin's *Works*, x. 56. Referring to the neglect of the States to send representatives to Congress, Samuel Osgood wrote, in 1784: "It is cruel to the last degree in those States, which oblige us to waste our time and spend the money of our constituents, without being able to render them services equivalent." *Mass. Hist. Soc. Proc.*, v. 469.

a movement in its chair when it elected Richard Henry Lee; and Lee, turning to Massachusetts, sought with partial success to bring Gerry and Samuel Adams to his way of thinking. The President was, however, better satisfied when so powerful a State as New York finally arrayed herself on the conservative side, through a majority of her delegates.

It seemed as if no measure of reform could succeed, and the members of Congress turned with more or less passiveness to the current events. They heard from the eastward that Massachusetts[1] had asserted her right to expel dangerous aliens, which the loyalists understood. They busied themselves with exchanging compliments with Luzerne, who was preparing to return to France.[2] The British still occupied various posts along the northern frontier, and apparently had no intention of evacuating them; for they were a convenient hold on the States, to force them to remove the obstacles to the collection of British debts, which some of the States persisted in imposing,[3] while Congress was powerless to prevent such action. Franklin, in his "Sending Felons to America" and his "Retort Courteous," gave some biting sarcasms upon the urgent haste of the British to be paid by people whose property they had destroyed.[4] Congress had not yet awakened to the possibilities of British temporizing, and listened to reports on the evacuation of the posts,[5] and amused themselves with marking out plans of organizing a force of seven hundred men, to be ready to occupy them on the marching out of the British.[6] Baron Steuben told them, at the same time, how such things should be done.[7] Finally, as midsummer approached, in June, 1784, Congress adjourned, having appointed what they called a grand committee, or one from each State, to look after affairs till October, when Congress would reassemble. There was little to do but quarrel, and so the committee broke up in August,[8] and left the country without a government, — not, under the circumstances, much of a deprivation.

There were two manifestations in 1784 which excited the popular interest, and drew men's minds from political perplexities. One was the tour of Lafayette, who, on a visit from France, was travelling through the country

[1] March 24, 1784.

[2] *Secret Journals*, iii. 500; *Journals*, iv. 405. Count de Moustier succeeded. See letter accrediting him, *Secret Journals*, iv. 423.

[3] In Virginia, Richard Henry Lee urged the legislature to repeal such laws. Patrick Henry would not expunge them till the British government had made reparation for the slaves carried off, and his views prevailed.

One of the most important of the cases arising under the clause of the treaty providing for the payment of debts due British creditors was the case of Ware *versus* Hilton, argued by Marshall (Magruder's *Marshall*, 37), the State of Virginia having in lieu of the creditor received the money, thereby absolving the debtor. Cf. Arthur St. Clair's report on the alleged infractions of the treaty by England, dated New York, April 13, 1787, in *Journals of Congress*, iv. 735–739, and Curtis on such infractions (*Constitution*, i. 249).

[4] McMaster's *B. Franklin*, p. 243.

[5] *Journals*, iv. 402.

[6] *Journals*, iv. 438.

[7] *Letter on the subject of an established militia, and military arrangements, addressed to the inhabitants of the United States, by Baron de Steuben* (New York, 1784).

[8] *Journal of the Committee of the States: containing the Proceedings from June, 1784–August, 1784* (Philad., 1784).

like a hero, as well he might; now paying his homage to Washington at Mount Vernon, now receiving civic honors here and there, and finally subjecting himself to the formal leave-taking of the grand committee of Congress.[1] The other expression was a general popular aversion to the new Society of the Cincinnati, turned largely against that hereditary principle of membership which was finally discarded. Pickering[2] saw in the whole movement of the officers who had organized the order something of the "pomposity" of Knox, as he called it; but it was the quality of heredity which was deemed dangerous, not the trappings of parade. Not only the ordinary citizen, but the leading civilians, filled the air with their apprehensions of such subversions of liberty as this principle was thought to portend. Knox picked up all the burning stories of dislike and wrote of them to Washington,[3] and under their great master's guidance the society soon placed itself before the public in an attitude of less appalling menace,[4] but not until the echo of the country's sentiment had come back from Europe in the sturdy phrases of John Adams and in the biting satire of Franklin.[5]

But the aspects of the public business could but make all thoughtful people turn, in their reflective moments, to the political conditions under which they were drifting — whither? Jeremy Belknap was despairing of the republic even in New England.[6] People everywhere were feeling what Laboulaye in our day has expressed: "The new-born republic just missed dying in its cradle."[7] Administrative business lodged in a committee with no authority to enforce its will, not even in the vital particulars of supporting an army and collecting revenue;[8] power to make decisions between their own States and conventions with other States, but unaccompanied by any method of compelling attention to such acts; power to contract debts, and no power to pay them; all general policies of trade and commerce set selfishly at defiance by the several States, and Congress helpless, — all these conditions were scarcely promising. Emancipation from British control seemed destined to become little else than a carelessness of what might take its place. Congress had not the inherent dignity to allure states-

[1] *Secret Journals*, Dec. 9, 1784, iii. 512; Bancroft, final rev., vi. 127.

[2] *Life of Timothy Pickering*, i. 523.

[3] Sparks's *Corresp. of the Rev.*, iv. 58.

[4] Sparks's *Washington*, vol. ix.

[5] *Franklin's Works*, x. 58. Cf. McMaster, i. 167. There was a strong feeling that the purpose of the Cincinnati was to coerce Congress into paying the debt due to the army, and that a hold on the treasury was somehow to be got by slipping members of the body into Congress (*Mass. Hist. Soc. Proc.*, v. 472). See enumeration of some of the publications evoked by the Society of the Cincinnati in the *Brinley Catal.*, iii. nos. 4,800, etc. A tract, *Considerations on the Society*, by Cassius [? Ædanus Burke], was issued at Philad. in 1783; and on this tract Mirabeau based a paper, which in an English translation, with corrections by Burke and called also *Considerations*, was published in Philad. in 1786. For Jefferson's opposition, see his *Writings*, ix. 89. He says he communicated to Meusnier the ground of the charges made against the society in the *Encyclopedie Methodique*. See Vol. VI. 746.

[6] *Belknap Papers*, i. 313.

[7] *Études Morales et Politiques*. Some of the most observant of contemporaries and the carefullest of our students have considered that this period was fuller of hazard than the period of the war. Cf. Marshall's *Washington*, ii. 107; Trescot, *Diplom. Hist.*, p. 9; Story, *Constitution*, i. sect. 249; Von Holst, Eng. tr., i. 38; Curtis, *Constitution*, i. 233; Madison's *Letters*, i. 320.

[8] Not a quarter of the requisitions made on the States for money was paid.

men, nor did it offer temptations even for politicians. This or the other State was unabashed in the disregard of the executive committee's piteous appeals for money to meet its expenses. The money hoarded in an old woman's stocking was a better credit than some of the States could finally offer. Whatever commerce existed was at the mercy of impudent pirates. Foreign nations preferred to plunder where they could not be resisted rather than make treaties which one of the contracting powers could not enforce.[1] England looked on in wonder, and with a sort of revenge not unmixed with pettishness, that such a miserable shadow had frightened her into such a peace![2] There were, moreover, preconceived and old-time notions to be overcome. It was a common observation that the country was too large for a successful republic, for there was little idea then of what steam and electricity were destined to accomplish in annihilating time and distance, — those two great drawbacks to effective government over large areas, and the chief promoters of those local prejudices which repel all processes of general assimilation. Neither was political wisdom advanced enough in all circles to mark the force of Madison's reasoning, that "as a limited monarchy tempers the evils of an absolute one, so an extensive republic meliorates the administration of a smaller republic." The fact was that Congress, before 1781, with no defined powers, stretching what it had as it could, was stronger than it became when those powers were defined under the Confederation. Congress had more intimate control of the navy than of the army, as the naval power might not threaten the civil so readily as an army could; but it was powerless to make the States build the frigates which it desired. To escape from this mockery of a constitution it was necessary that all the States should agree, and any five States[3] could stand in the way of all-important movements which temporary considerations prompted the discontented States to avert.

Time and again Congress roused itself to do something, but its efforts only the more marked it to be what Randolph, some time later, called "a government of supplication." Supplication might suffice, in a measure, with the aid of influence, but, as Washington said, "influence is not government." Now and then a reactionary spirit led to wild talk, — talk of a king, talk of breaking into separate confederacies, and, with it, talk of indifference, — anything for quiet and happiness. It could hardly be otherwise. The natural outcome of the violent assumption of state-rights — such as Arthur Lee, who had muddled our diplomacy in Europe, was now advancing in Virginia, and Samuel Adams was contending for in Massachusetts

[1] Cf., on the nature and powers of the Confederation, Curtis's *Constitution*, i. 142; and on its decay and failure, *Ibid.* i. 328.

[2] "Britain will be long watching to recover what she has lost," wrote Franklin (*Works*, x. 87) to Charles Thomson, after the treaty had been concluded; and the history of the next succeeding years abundantly proved his observation.

[3] Virginia, with the support of John Adams, had contended actively, but unsuccessfully, against the smaller States in trying to secure the power to act, not by States, but by a count of votes proportionate to population (Bancroft, ix. 437).

— was not unlikely, as it seemed, to end in disintegration or something worse. The two sections, Northern and Southern, different as they were, were working out results that were independent.[1] The interest of the North in the fisheries was not shared by the South, and, as we shall see, the South took serious umbrage at the willingness of the North to secure their commercial advantage at the expense of the navigation of the Mississippi.[2]

Early in 1785 the commercial difficulties of the country produced action, both in Massachusetts and in Congress, that for the moment looked as if something might be done. In March, Monroe introduced into Congress a qualified measure looking to the federal regulation of commerce, but he was content not to hurry its consideration.[3] When it came under debate, Richard Henry Lee, with his accustomed suavity and dignity, opposed it as destructive of liberty, and nothing further was to be hoped from such Virginians.[4]

In Massachusetts, Governor Bowdoin (May 31)[5] urged upon the legislature the passage of resolutions recommending the calling of a convention to revise the Articles of Confederation in the interest of trade. The resolves were passed and sent to the representatives of the State in Congress, but Gerry and King presumed to withhold them, backed, it would seem,

[1] A letter of John Bacon (*Mass. Hist. Soc. Proc.*, March, 1862, p. 477) reflects the arguments of the North against the proposition to count five negroes as three persons, in the common adjustments between the North and South.

[2] The general picture of the Confederation, in all its weakness and despair at this time, has been often drawn, — perhaps not with greater fullness than by McMaster, in his first volume. Schouler, in his opening chapter (*United States*), gives it with precision, but in a more condensed way. Cf. also Bancroft, Hildreth, Curtis, and Story on *The Constitution;* the *Federalist;* Madison's notes of debates in *Elliot's Debates*, vol. v.; Pitkin's *United States*, ii.; Von Holst's *Const. Hist. U. S.*, Eng. tr., i. ch. 1; Marshall's *Washington*, i. 108; Fisher Ames's *Works*, ii. 370; Rives's *Madison*, ii.; Wells's *Samuel Adams;* Morse's *Hamilton;* the judicious view in Smyth's *Lectures on History*, vol. ii. There are other more popular expositions, like the account of the relations between the Congress and the States in G. W. Greene's *Hist. View of the Amer. Rev.*, and other representations in J. P. Thompson's *United States as a Nation;* a paper by John Fiske in the *Atlantic Monthly*, March, 1886; one by F. N. Thorpe in the *Mag. of American Hist.*, Aug., 1887.

The general tone of all these accounts is that of a chronicle of gloom. It is to be remarked, on the contrary, however, that when Franklin came back from Europe he seems to have been impressed with the prosperity of the country, or at least he assumed an air of cheerfulness with his foreign correspondents, as if to counteract the impressions which the English press were assiduously giving of the dangerous decline of the States (*Franklin's Works*, x. 253, 277, 302). Not long after, in his *Consolation for America*, which appeared in the *American Museum* in Jan., 1787 (cf. McMaster, i. 427, for other references), Franklin reiterated his belief that the times were not so bad, after all, if there was no haste to be rich, if farmers were not eager to become tradespeople, and if there was no more spent in living than was necessary to comfort. In the *Hist. Mag.*, March, 1871, there is a letter by H. B. Dawson to J. L. Motley, in response to some statements of that historian in the *London Times* in 1861, in which most of the symptoms of content during the Confederation days, which could be gleaned, are grouped together to point an argument.

There is no doubt that the merchants had been importing English goods beyond even the excessive requirements, with the consequent impoverishment of merchant and buyer. In 1784–85, the importations had amounted to $30,000,000, while the exports were only $9,000,000. Cf. C. H. Evans's *Exports, domestic and foreign, from the American colonies to Great Britain from 1697 to 1789, inclusive. — Exports, domestic, from the United States to all countries, from 1789 to 1883, inclusive* (Washington, 1884, — *48th Cong., 1st sess. House. Mis. doc. 49, pt. 2.*)

[3] Bancroft's *Constitution;* Sparks's *Washington*, ix. 502–7.

[4] Cf. Rives's *Madison*, ii. 31.

[5] Barry's *Mass.*, iii. 265; R. C. Winthrop's *Address on Bowdoin.*

by the sympathy of Samuel Adams, and the General Court did not venture to remonstrate.[1] John Adams,[2] in London, was at the same moment writing urgent letters to Jay, setting forth the impossibility of making any treaties with foreign powers till this control of commerce, in some efficient way, was given to Congress.[3]

Spain, prevented by the perception and alertness of Jay in getting that hold on the Mississippi Valley, in the treaty of peace, which she had long been intriguing to secure, was now become, as she had steadily purposed, an important factor in the complications of the policy of the young republic, and it was again to Jay, as secretary for foreign affairs, that the progress of the negotiations was entrusted. There had before this, come to be little hope of any successful commercial arrangement with Great Britain, for that power persisted in enforcing its navigation laws against the new aliens of the Confederation. British Orders in Council excluded American vessels from the West Indies; and American products, so long the purchasing power for the American people of all that the West Indies could give them, could only be carried thither in English bottoms.

Congress, importuned to counteract such restrictive acts, put Arthur Lee on a committee to consider them, and of course nothing was done.[4]

No sooner did the mercantile States and the shipping towns begin to feel the burdens of such and other restrictions, than the passion for retaliatory measures grew strong, and the individual States undertook to impose retaliatory duties on British commerce, each in its own way. Gouverneur Morris was sharp enough to see that any British overbearing would do America "more political good than commercial mischief."

The States found it not easy to frame such restrictive acts so as not to injure friend and foe alike; and France soon took occasion to complain of some of the disabilities under which her trade was put.[5]

When Don Diego Gardoqui, in July, 1785, arrived in Philadelphia[6] as the accredited agent of the Spanish government, Jay thought there was an opportunity to bargain with Spain in a way to effect certain assured facilities of trade which Spain might offer in the Mediterranean and elsewhere, — which would please the merchants of the shipping colonies,[7] — and to secure exemptions from Spanish claims[8] to lands in the Missis-

[1] *Life of Hamilton*, by Hamilton, ii. 353; *Boston Magazine*, 1785, p. 475.

[2] *Works*, viii. 273.

[3] Upon the impotency of Congress as regards the regulating of imposts and the need of reform, see Curtis's *Constitution*, i. 271, 276; Pitkin's *United States*, ii. 225; Hildreth, iii. 450, 472; Marshall's *Washington*, v. 65; Irving's *Washington*, iv. 451; Wells's *S. Adams*, iii. 222; C. F. Adams's *John Adams*, i. 441; *Webster's Works*, i. 302; ii. 174; iv. 492, 494. Sparks gathered a number of the essential contemporary papers in the *Sparks MSS.*, ix. 501 *et seq.*

[4] In 1784, before the country had come to understand the power of Great Britain in her restrictive navigation acts, there were many, as Samuel Osgood wrote in 1784, "who do not only not wish, but will use their endeavors that no [commercial] connection shall ever be formed" with Great Britain. *Mass. Hist. Soc. Proc.*, v. 469.

[5] Tanguy de Laboissière's *Mémoire sur la Situation Commerciale de France avec les États Unis de l'Amérique, depuis 1775 jusquà 1795* (100 copies).

[6] *Journals of Congress*, iv. 544.

[7] Cf. letter of Rufus King in *Mass. Hist. Soc. Proc.*, ix. 10.

[8] Lyman (*Diplomacy*, etc., i. 121, 2d ed.) says

sippi Valley, included in the cessions of Great Britain — which might gratify the people of the Southern States, — all this at the cost of surrendering the navigation of the Mississippi to that power for a term of twenty-five years.[1]

There was a startling effect when Jay disclosed this project to Congress, and it did not subside till the rush of events and the adoption of the Federal Constitution finally pushed the whole matter into temporary oblivion.[2] The proposition, when fresh, evoked violent opposition at the South, for it was looked upon as an attempt to sacrifice the Southern interests to the gain of the Northern merchants;[3] and all the while there was not a little suspicion that Spanish instigations were responsible for the raids upon the settlers along the Cumberland, of which reports were reaching Congress. It was not long before the blood of the new occupants along the Ohio banks was boiling, for news soon came that an American trading-boat had been seized at Natchez, and in retaliation some Spanish merchandise was taken possession of at Vincennes. Congress looked on in its impotency. In this state of feeling there was a new cause for alarm. If her people were to be subjected to Indian depredation, Georgia had no hesitancy in usurping powers that even rightfully belonged to Congress, when she would make treaties with the tribes along her borders; and even North Carolina and Virginia were not quite willing to trust the Confederation in such matters. Congress sat despondent, and saw even its rightful control slip away.

The feelings engendered by the propositions of Jay so gathered head, at one time, that it seemed probable an unbridled passion might force a disruption of the Union. It was then that, looking to the joint interests of Pennsylvania and Virginia, Monroe even counselled that in the last resort force might be applied to prevent the more northern of these two States casting in her lot with an Eastern confederation.[4]

It was under such strains of the public sentiment as these that Congress had been urging upon the States to grant to that body the right to lay a tax upon imports. The States had generally acceded to the proposition; but New York held out in opposition,[5] quite content to levy her own tax both upon foreign commodities, as well as upon garden-truck from New Jersey and firewood from Connecticut. New Jersey tried to coerce her powerful neighbor by the revolutionary expedient of refusing to pay her

"There is now in the Department of State at Washington a copy of Mi[t]chel's map of North America on which the Count D'Aranda traced, in the presence of Mr. Jay at Paris, in the summer of '82, the boundaries of Spain, beginning at the confluence of the Ohio and the Kenhawah, and running round the western shores of Erie, Huron, Michigan, to Lake Superior, — including all the Western States."

[1] Rives's *Madison*, ii. 111, 594; Whitelock's *John Jay and his Times*, ch. 14; Jay's *Jay;* and *Secret Journals of Congress*, iv. 63–131, 296–301, 338; Curtis's *Constitution*, i. 316; Bancroft, vi. 421; Hildreth, iii. 464; Albach's *Annals*, 457; Madison's *Letters*, i. 137, 158, 264; iv. 364.

[2] The dispute with Spain was finally settled in 1795 by treaty, when Spain ceded the territory in dispute.

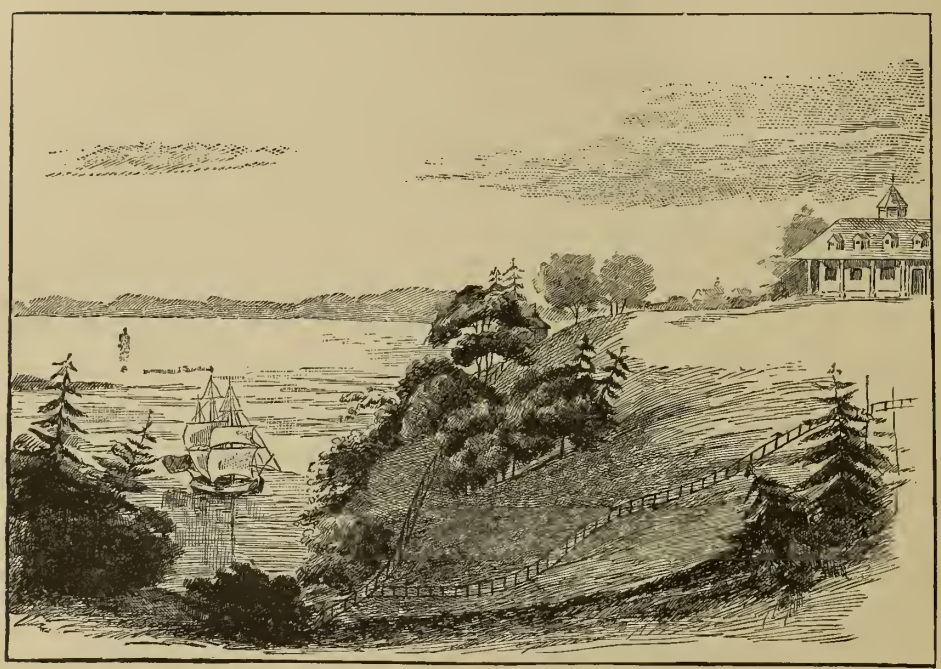
[3] Rives's *Madison*, ii. 122.

[4] *Ibid.* ii. 125, 178.

[5] Marshall (*Washington*, ii. 123) says that the veto of New York on the impost "virtually decreed the dissolution of the existing government."

federal taxes; and when, in her second soberer thought, she swerved from her purpose, she did scarcely better, in failing to make provision for the collection of such dues from the people.[1]

But the way was preparing for relief, and the darker hour was to precede the dawn. In March, 1785, commissioners of Maryland and Virginia had



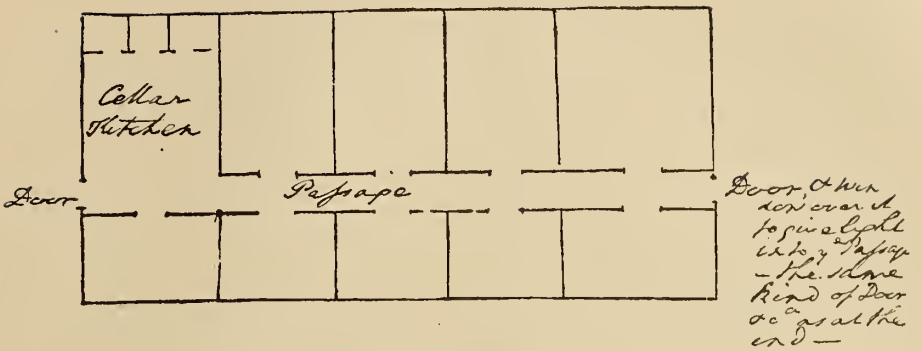
MOUNT VERNON IN WASHINGTON'S TIME.*

[1] Dr. Belknap, in 1786, picturing the hampered and imbecile condition of Congress under such tribulation, longed for some rousing publication like the *Farmer's letters* of 1768 (*Belknap Papers*, in Mass. Hist. Soc. Coll., i. 431). "We must be drove to our duty," he told Hazard, "and be taught by briars and thorns, as Gideon taught the men of Succoth."

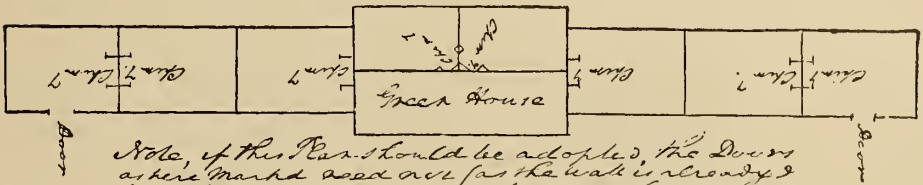
* From a plate in Isaac Weld's *Travels through No. Amer.*, 1795–1797, 4th ed., London, 1807, in 2 vols. There is a quarto ed., 1799, with the same plate. Cf. cut in Gay's *Pop. Hist. U. S.*, iv. 137. A paper on the "Home and Haunts of Washington" in the *Century*, Nov., 1887, gives a view of the entrance to the estate on the land side as it existed in Washington's time (p. 13), with views of the present condition of the estate. Cf. also Lossing's *Mount Vernon, the Home of Washington, its Associations, historical, biographical, and pictorial* (Hartford, 1870); *Philad. Library Bulletin*, July, 1883, p. 68; and references in *Poole's Index*. There is also an early view of Mount Vernon in W. Birch's *Country Seats of the United States* (Springland, near Bristol, Penna., 1808). A large colored view of the original tomb of Washington is in Hill and Shaw's *Views in America*, 1820. For the tomb in 1834 see *Amer. Mag.*, i. 105.

Mr. Samuel Vaughan visited Washington at Mount Vernon in 1787, and in his MS. journal (owned by Mr. Charles Deane) describes the general's daily life in superintending his estates, and gives a colored plan of the mansion grounds, correct in but one particular, as is pointed out by Washington in a letter to Mr. Vaughan, Nov. 12, 1787 (Sparks's *Washington*, ix. p. 281). There is a map of the farm in *Ibid.* xii. 316. The last plan which Washington made of his Mount Vernon lands, dated Sept. 20, 1799, was in the sale of Charles Thurber and others, N. Y., by Geo. A. Leavitt & Co., June, 1884, lot 1,083.

The drawings of alterations in the buildings at Mount Vernon, which Washington made after the war, and in accordance with these plans, are reproduced from his own drawings, but reduced in size, in the text. The originals were kindly put at my disposal by Mr. S. L. M. Barlow of New York.



Plan N°. 1.



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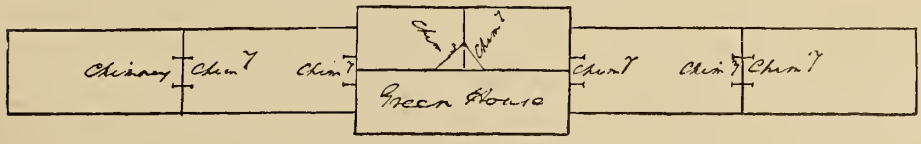
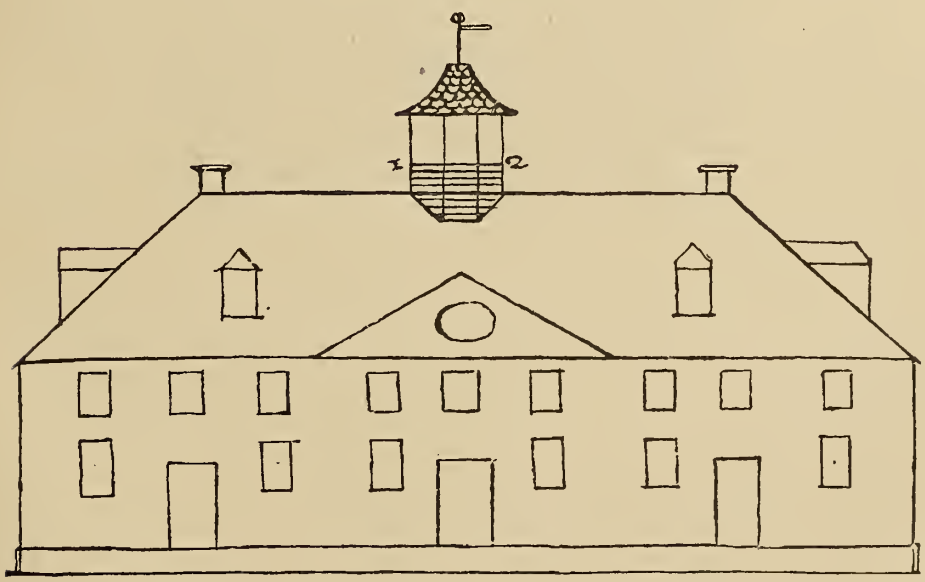
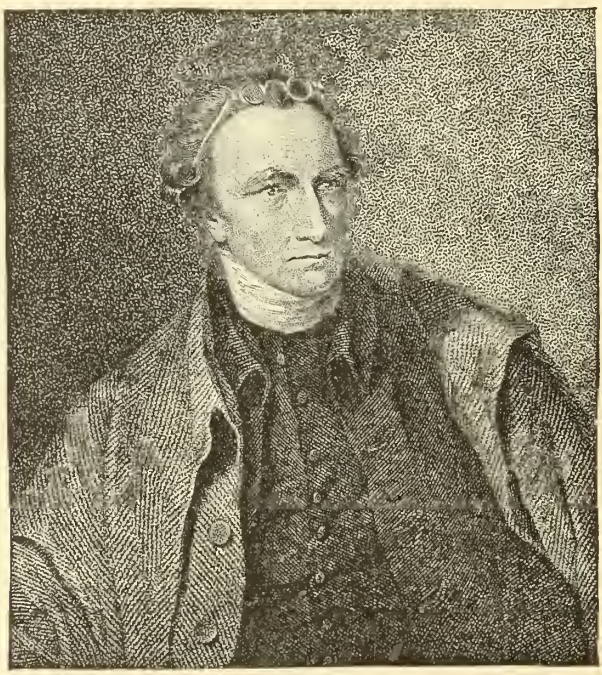




met to arrange details about a joint use of the Potomac ; and the discussions naturally led to the consideration of terms of commercial reciprocity between those States. The scope of such provisions grew in the minds of a few to include other if not all the States of the Union, and Madison was the main agent in giving force and direction to these views.

Accordingly, on the 21st of January, 1786, the legislature of Virginia resolved to invite the States to a general conference for enlarging the powers of Congress over trade. The federal body meanwhile discussed, but did not move. The convention [1] met in September at Annapolis. None but the Central States had thought it worth while to respond. Those who assembled felt they were too few for action, but determined to bring about, if possible, a more general attendance upon a convention to be held at Philadelphia in May, 1787, if all the States could be induced to be represented.



PATRICK HENRY.*

[1] For the report of the convention, see *American Museum*, i. ; Towle's *Constitution*, 341 ; *Madison's Works*, ii. 698. See, on the Annapolis convention, Elliot's *Debates*, i. 116 ; Curtis's *Constitution*, i. 346 ; Austin's *Gerry*, ii. 4 ; lives of Hamilton and Madison ; Hamilton's *Works*, i. 432 ; ii. 336 ; Marshall's *Washington*, v. 97 ; Sparks's *Washington*, ix. 223, 513 ; Bancroft and Hildreth ; Bradford's *Massachusetts*, 253 ; *No. Amer. Rev.*, Oct., 1827 ; *Worcester Mag.*, nos. 27, 28.

Rives (ii. 66, 98) claims for Madison the credit of making, in his motion for the Annapolis convention, the first real step forward toward the ultimate convention at Philadelphia (Madison's *Letters*, iii. 586). There is much room for variety of opinion on the immediate causes. H. B. Dawson (*Hist. Mag.*, Mar., 1871, p. 176) traces the "first effective moving cause, which led to the convention of 1787," to Gen. Malcolm's resolution in the New York Assembly, Feb. 17, 1787.

* After a print in the *Analectic Magazine*, Dec., 1817, from a painting by Sully, and engraved by Leney.

With this view a report was made to Congress. The delegation from Massachusetts prevented that body from approving it. Going back to his own State, Rufus King, assisted by Nathan Dane, convinced the legislature that there was no need of a convention, and that Congress could initiate all needful improvements in the Articles. Virginia acted more nobly. She was the earliest to agree to the project, and named Washington, Madison, Randolph, and Mason to be her representatives.[1] As State after State fell into line, King and Gerry, of Massachusetts, began to doubt, and then acceded to the winning side, offering a resolution in Congress, by which that body (February 21, 1787) appointed the same day and place for a convention, which was to be held for the same end, — an agreement which saved the pride of Congress, and did not frustrate the purposes of others.[2]

On the same day of the action of Congress (February 21, 1787), Massachusetts had at last chosen her delegates. It had been a severe lesson which brought her to this result, and the lesson was not lost upon the country at large. It is hardly necessary to consider a social ebullition, resulting in armed resistance, to have been abetted by emissaries of England, as was believed by some at the time.[3] There were signs of its coming even before the close of the war, and very likely, as Rives[4] suggests, there was something in the laws of Massachusetts that invited a revulsion in times like those which had come. The agrarian spirit, in one form and another,

[1] "I here acknowledge," said Mr. Webster in his speech on the Sub-Treasury in 1838 (*Works*, iv. 494), "the commonwealth of Virginia to be entitled to the honor of commencing the work of establishing the Constitution. The honor is hers. There is not a brighter jewel in the coronet that adorns her brow." We cannot overappreciate the influence in this direction of that private citizen who was the most conspicuous of Americans. We cannot read the letters addressed by and to Washington, in the ninth volume of his *Writings* (Sparks's), without being impressed with his noble anxiety, and with a calmness of wisdom that never in his long career served his countrymen to better purpose. There is something elevating in the contemplation of the relief which the country felt when it was found that Washington would not decline, as he at first wished to do, the seat in the proposed convention to which Virginia had elected him. A sense of the value of his service at this crisis has been often expressed; but see Frothingham's *Rise of the Republic*, 586.

Almost equally fortunate was it that a younger man, in whom Washington could place the confidence which he bestowed upon Madison, stood ready with his large practical wisdom to help sustain the leading influence of Virginia in this hazardous conjunction. It is an additional satisfaction to know that we have left such a record of his thoughts as is found in the *Madison Papers*. Cf. Rives's *Madison*, ii. ch. 28; Towle, Curtis, and Story on *The Constitution*. Rives (ii. 658) has shown that a paper thought by Sparks (ix. 521) to have possibly been the work of Washington was really that of Madison. Cf. Madison's *Letters*, i. 293; Curtis's *Constitution*, i. 200.

It is not without significance that at this juncture Patrick Henry refused to enroll himself among the supporters of Washington and Madison. Jefferson thought him time-serving; but the action of Jay had alarmed him, and convinced him of the danger which would accrue to the Southern States by giving to Congress, in which the Northern States might combine, more power than it now had. Thus resolutely refusing to fight the project within the convention, he prepared to assail its work in fashioning the public opinion of his State against any such consolidation of power. (M. C. Tyler's *Patrick Henry*, ch. 17.)

[2] The action of Congress in acceding to a call for a convention was held by many to be a necessary constitutional measure, if the meeting was not to be a revolutionary one. Washington held this view (Sparks, ix. 237). Cf., for the congressional call, Rives's *Madison*, ii. 181; Elliot's *Debates*, i. 119; Towle's *Constitution*, 345; Curtis's *Constitution*, i. 362.

[3] *John Adams's Works*, viii. 420; Wells's *Sam. Adams*, iii. 226.

[4] *Madison*, ii. 166.

Commonwealth of Maſſachuſetts.

By His EX'CELLENCY

JamesBowdoin,Eſq.

GOVERNOUR OF THE COMMONWEALTH OF

MASSACHUSETTS.

A Proclamation.

WHEREAS by an Act paſſed the ſixteenth of February inſtant, entitled, "An Act deſcribing the diſqualifications, to which perſons ſhall be ſubjected, which have been, or may be guilty of Treaſon, or giving aid or ſupport to the preſent Rebellion, and to whom a pardon may be extended," the General Court have eſtabliſhed and made known the conditions and diſqualifications, upon which pardon and indemnity to certain offenders, deſcribed in the ſaid Act, ſhall be offered and given; and have authorized and empowered the Governour, in the name of the General Court, to promiſe to ſuch offenders ſuch conditional pardon and indemnity:

I HAVE thought fit, by virtue of the authority veſted in me by the ſaid Act, to iſſue this Proclamation, hereby promiſing pardon and indemnity to all offenders within the deſcription aforeſaid, who are citizens of this State; under ſuch reſtrictions, conditions and diſqualifications, as are mentioned in the ſaid Act: provided they comply with the terms and conditions thereof, on or before the twenty-firſt day of March next.

GIVEN at the Council Chamber in Boſton, this Seventeenth Day of February, in the Year of our LORD One Thouſand Seven Hundred and Eighty Seven, and in the Eleventh Year of the Independence of the United States of AMERICA.

JAMES BOWDOIN.

By His Excellency's Command,

JOHN AVERY, jun. Secretary.

BOSTON: Printed by ADAMS & NOURSE, Printers to the GENERAL COURT.

[Reduced from a copy in the Mass. Hiſt. Society's library.]

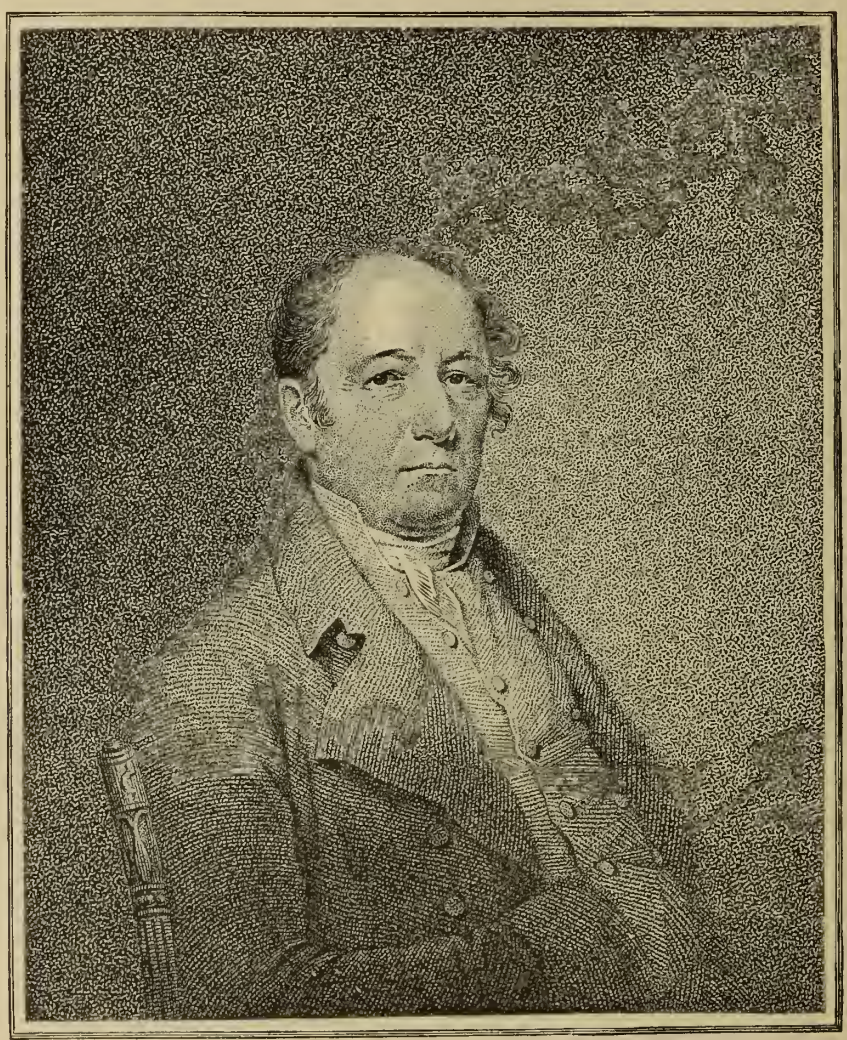
was abroad. It was the plea of the country for the cession of the Western lands by those States which claimed them, that all the States which had assisted to secure them should share their advantages. There was no nice discrimination in the reasoning of the masses, and they were not disposed to observe any fallacy in the argument that all property which joint resistance had protected was equally the subject of division. Times such as existed were ripe for the machinations of demagogues and malcontents. The old families were impoverished, and did not afford the usual barrier of conservatism. A new moneyed race had sprung up, — speculators who had bought claims to be enforced; sutlers who had made money when the soldiers were suffering; upstarts who had shared the profits of the privateers, — and there were lawyers who, in carrying out the harsh compulsions of the law, scaled their fees to the measure of the prodigality of those who had grown rich so adventitiously. The prisons were filled with vagabonds and debtors. Towns pushed the unfortunate paupers beyond their borders, until they could find no pillow so welcome as the stone floor of a cell. Even the reputed well-to-do people were harassed by the disordered state of the public finances. There was no specie for those who could not live by the exchange of produce. Merchants who had depended on the extravagance of customers suddenly found that sales of their over-large importations were stopped, and the lawyers had claims against them for collection. It was almost inevitable that the courts should be resisted. The turbulent mob found a leader in one who had been an officer in the army, and had some military experience — Daniel Shays.

JAMES BOWDOIN.*

Fortunately for the State, her governor was a man of nerve and decision; and James Bowdoin was a man in whom those who had money and were law-abiding had confidence. So it was that in a week's time the merchants of Boston placed £5,000 in his hands. The militia of the eastern part of the State was put in motion, and the main body of them proceeded westward, under General Benjamin Lincoln, to the scene of the chiefest disorder, in the valley of the Connecticut. It was wintry weather, and forced marches were made. The supporters of the law presented a front before which the ill-organized mob quailed, and the country was tracked with the

* After a profile in the *Mass. Mag.*, Jan., 1791, from an original said to be owned by the family. Cf. full-length in *American Magazine*, i. 373; and miniature likeness in *Mem. Hist. Boston.*

devious paths of the lawless fugitives. Some of the leaders were captured, tried, and convicted; but prudence ruled the government, and they were finally pardoned.[1]



RUFUS KING.*

[1] The principal contemporary authority on the Shays Rebellion is George Richard Minot's *History of the insurrections in Massachusetts, in the year 1786, and the rebellion consequent thereon* (Worcester, 1788, and 2d ed., Boston, 1810). He had access to the official documents, and enjoyed the acquaintance of the leading actors in the suppression of the revolt. Belknap (*Belknap Papers*, ii. 55, 59) represents the opinion of the law-abiding part of the people in Massachusetts when he says that the book was written with candor. He refers to the adverse

* After the engraving by Leney, following Wood's picture, given in Delaplaine's *Repository* (Philad., 1815). Cf. a recent woodcut in *Scribner's Mag.* (1887), vol. ii. 172; and Lossing's *War of 1812*, p. 143. Stuart's picture, owned by A. G. King, is engraved in T. W. Higginson's *Larger History*, 401. There is a picture in Independence Hall, Philadelphia.

Massachusetts could now well revise her record. King came over to the advocates of a convention, and urged Gerry to accede.[1] Delegates were appointed, as we have seen. The effort to bring New York into line was an eager one, and the abilities of Hamilton were put to a test in order to overcome the resistance of Governor Clinton and his followers.[2] The advocacy of Hamilton was timely, and he labored with all the vigor of his mind. Schouler[3] aptly says of him: "He had not great tact, but he set his foot contemptuously to work the treadles of slower minds." Much depended on New York.

"The papers teem with federal and anti-federal pieces," wrote Belknap, December, 1787, to Hazard, a citizen of New York. "We are more afraid of your State than any other."[4] The victory was won, and New York appointed delegates; but Hamilton, who was one of them, found no help from his associates. It was, as regards her other delegates, an accession without heart.

There was one member of the Confederation, left at last, which had not responded, — the smallest of the States, the thorny Rhode Island, — whose want of adhesion was not much regretted, whose factious self-will really helped the cause more than any docility on her part could have done, and the work was completed without her.[5]

views when he says, "Minot has brought *Honestus* upon him already, and it is probable many more of the wasps will sting him." Hazard replied to Belknap: "There is a degree of impartiality and independence of spirit in the book which does Minot honor." William Tudor's similar opinion is given in Sparks's *Corresp. of the Rev.*, iv. 229. The account in McMaster (i. 299–330), one of the most extensive of compiled narratives, refers to newspapers of the time, but makes no reference to Minot. Knox described to Washington the temper of the people (Sparks, ix. 207), and Lincoln sent him a memoir, with official papers (*Ibid.* 239). The Lincoln papers were used by Barry (*Hist. of Massachusetts*, iii. ch. 6), who gives abundant references. Other letters to Washington are in Sparks's *Corresp. of the Rev.*, iv. A letter, Jan. 8, 1787, from Rufus Putnam to Governor Bowdoin, describing an interview with Shays, is in the *Maine Hist. Coll.*, ii. 250. The views of some who regretted precipitating the revolt are in the *Amer. Antiq. Soc. Proc.*, iv. 368. Poore (*Descrip. Catal. Govt. Publ.*, p. 17) gives the publications of the papers reaching Congress. There are numerous papers in the Mass. Archives. Another contemporary account is in the *Worcester Mag.*, Sept., 1786. Cf. views of a leading Federalist in Wm. Sullivan's *Familiar Letters* (Boston, 1834), p. 5; and notices in Madison's *Letters*, iii. 243. The local aspects are studied in Holland's *Western Mass.*; Lincoln's *Worcester*; Ward's *Shrewsbury*; Butler's *Groton*; Shattuck's *Concord*; Smith's *Pittsfield*; Sawtell's *Townshend*; Paige's *Cambridge*. Cf. also Bradford's *Mass.*; Wells's *Sam. Adams*, iii. ch. 59; Amory's *Sullivan*; Austin's *Gerry*. A paper by Dr. Green on the connection of Groton with the movement is in the *Mass. Hist. Soc. Proc.*, 2d ser., i. 298. A letter of Gen. Cobb, relative to the repression of disturbances in Taunton, is in *Ibid.* p. 77. Cf. *N. E. H. and G. Reg.*, 1864, p. 5, and the volume commemorating the presentation of Cobb's portrait to the State. For magazine and sectional papers, see Curtis on the *Constitution*, i. 269; Hildreth, iii. 474; B. J. Lossing in *Harper's Monthly*, April, 1862 (xxiv. 656); John Fiske in the *Atlantic*, Sept., 1886; D. Stebbins in *American Pioneer*, i. 383; E. Crane in *Worcester Society of Antiq. Proc.*, v. 61 (1881); L. M. Sargent's *Dealings with the Dead*, no. 29. Ralph Ingersoll Lockwood's novel, *The Insurgents*, is based on the record.

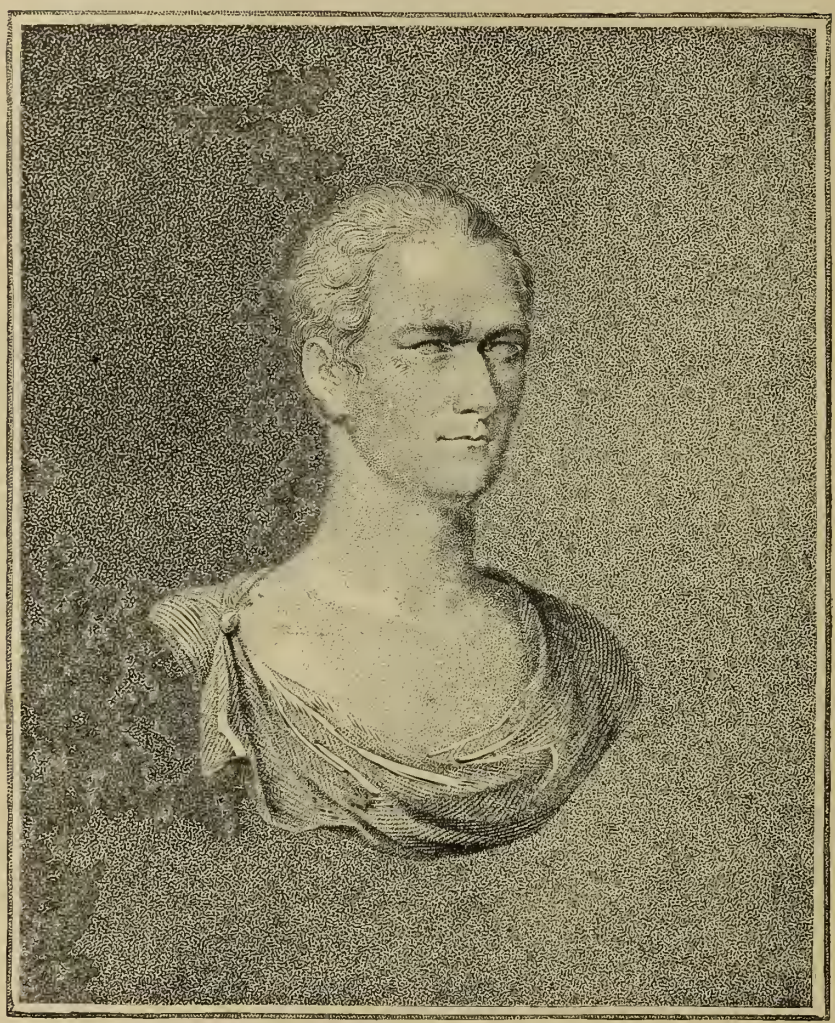
[1] Gerry expressed his middle-ground in the debates in the Federal Convention: "We are neither the same nation nor different nations. We ought not, therefore, to pursue the one or the other of these ideas too closely" (Elliott's *Debates*, v. 278. Cf. Von Holst, Eng. tr., i. 19).

[2] Morse's *Hamilton*, and other lives of Hamilton.

[3] *United States*, i. 25.

[4] *Belknap Papers*, i. 498.

[5] Judge Dana even proposed to annihilate the "abominable" Rhode Island, and divide her territory between Massachusetts and Connecticut (Austin's *Gerry*, ii. p. 67).



ALEXANDER HAMILTON.*

* After Leney's engraving of the bust by Ceracci in Delaplaine's *Repository* (1815). It is also engraved by A. B. Durand in J. C. Hamilton's *Hamilton* (ed. 1879, vol. i.). A bust after Houdon belongs to the Mass. Historical Society. The picture after Weimar in the N. Y. City Hall is engraved in Higginson's *Larger History*, 316. An engraving of a portrait by Trumbull (1792), painted for George Cabot, is in Lodge's ed. of *Hamilton*, vol. i. Ames's picture is also engraved by Leney. Cf. the engraving in the *Federalist* (ed. 1864). See the picture in Vol. VI. p. 384; in Gay's *Pop. Hist. U. S.*, iv. 102.

For a view of his house, see *Appleton's Journal*, viii. 436; of his tomb in Trinity, *Harper's Mag.*, Nov., 1876, p. 871; of the house in which he died, Gay, iv. 149.

NOTES.

A. Diplomacy in Europe. — An opinion was very promptly formed in England, after the treaty of peace, that the bond of union among the States of the new republic was far from perfect, and that disintegration must ensue.[1] The British soon perceived that they could secure, as they thought, all the desired commercial advantages under the enforcement of navigation laws, which treated as aliens those who were lately subjects. At all events, any power of retaliation was not to be dreaded as long as the States remained jealous of one another and of Congress. The English government, if not the American people, saw the mockery of the action of Congress, as far, at least, as the relations of the two parts of the now dissevered empire were concerned, when it commissioned (May 12, 1784) Franklin, Adams, and Jefferson to make treaties of commerce with European powers.[2] There was more sense than was willingly acknowledged in the States in the opinions of the British ministry, that a league without power to enforce treaties could hardly hope to negotiate treaties, when as many diplomatists as there were members of the league, each commissioned by his respective State, could only in conjunction effect a negotiation, the results of which could be compulsory upon the parties in contract.[3] It also served the purpose of the ministry to divide the interests of the several States as much as possible, and this method of a distinct recognition of the parts, with no recognition of the whole, was a ready means to that end.

Congress not long after moved to bring this feeling to an issue, when it appointed John Adams (Feb. 25, 1785) as minister to England; and a few days later it commissioned Jefferson as minister to France,[4] for Franklin had before this urgently asked to be recalled. The last official act of that veteran servant of the States had been to affix his signature to a treaty with Prussia, in conjunction with Adams and Jefferson, in which Franklin had succeeded, without any serious opposition, in embodying his own views respecting the exemption of private property from capture at sea.[5]

Adams passed over from Paris to London, to present his credentials. The aged Oglethorpe, the founder of Georgia, was the first to call on him. The new minister went through a memorable presentation to the king, and on June 2, 1785, he wrote home an account of it to Jay,[6] in which we have a record of suave speeches on both sides, about a common language and the same strains in the blood. This was agreeable; and both the king and his former subject bore themselves with reassuring frankness. The royal graciousness did not, however, represent the prevailing sentiment of the British people. Before he left France, Adams had written to Gerry[7] that, as he looked about, almost the only comfort he found was in the fact that, should war again come, the treaty of 1783 had rendered it possible "to fight without halters about our necks." When he reached England, the prospect was not more assuring, and he thought he saw a purpose in the English government "to maintain a determined peace with all Europe, in order that they may war singly against America, if they should think it necessary."[8] It was not very long before he wrote to Jay: "It is very apparent that we shall never have a satisfactory arrangement with this country until Congress shall be made by the States supreme in matters of foreign commerce and

[1] Cf. such tracts as Lord Sheffield's *Observations on the Commerce of the American States* (London, 1783). There was a 2d ed. with add. notes.

[2] *Secret Journals*, iii. 998. Cf. Pitkin, ii. 534.

[3] John Adams's *Works*, viii. 243. Cf. *Dip. Corrès.*, 1783–1789, ii. 297; Marshall's *Washington*, ii. 96; Pitkin, ii. 189. The British public were informed of these matters in such publications as the Rev. Wm. Jackson's *Constitutions of the several independent States of America, the Declaration of Independence, Articles of Confederation, etc.* (London, 1783; *Brinley Catal.*, iii. no. 4,824.) This seems to have been a reprint of a collection with a similar title, published by order of Congress, Philad., 1781 (Brinley, ii. no. 4,188, 200 copies), and of which a 2d ed. was issued in Boston in 1785 (Brinley, iii. no. 4,825.)

[4] March 10, 1785. *Secret Journals*, iii. 551.

[5] *Journals of Congress*, iv. 639; *Secret Journals*, iv. 5. Franklin then passed across the channel, and finally embarked at Southampton, July 25, 1785, and reached Philadelphia Sept. 14. Sparks's *Franklin*, i. 507; Parton's *Jefferson*, ch. 32; his *Franklin*, ii. 529; Lyman's *Diplomacy*, i. ch. 5. The first number of a new *Extrait des gazettes Américaines* (Paris, 1786) gave the addresses to Franklin on his return to America. with his replies.

[6] Adams's *Works*, viii. 256.

[7] *Mag. Amer. Hist.*, 1884, p. 276.

[8] John Adams's *Works*, viii. 282.

treaties of commerce, and until Congress shall have exerted that supremacy with a decent firmness."[1]

Adams, as soon as it was possible, had long interviews with Pitt respecting the frontier posts, the debts, the navigation acts, and other differences.[2] Adams pressed the English minister hard, and Pitt was complacent, but would not talk much. Adams was not fitted to endure reticence or evasion. "I wished for an answer, be it ever so rough or unwise," he wrote to Jay. "In short," he again wrote a few days later, "America has no party at present in her favor. . . . I had almost said the friends of America are reduced to Dr. Price[3] and Dr. Jebb. . . . Nothing but retaliation, reciprocal prohibitions and imposts, and putting ourselves in a posture of defence will have any effect."[4] He also complains that to match the British ministry in their system of espionage, and get information as readily as they do, was costly beyond his revenue. At another time he intimated to the ministry that the retention of the Western posts was likely to encourage the Indians, and that an Indian war, traceable to a breach of the treaty by England, would lead to consequences not to be calmly considered; and further, he said that if the surrender of the posts was contingent on the payment of debts to British subjects, it was quite as just that the debts should not be paid till the posts were surrendered. On Nov. 30, 1785, Adams presented a formal demand for their surrender.[5] Lord Carmarthen delayed long in his reply to this communication, but only to revert, when he did respond, to the undeniable fact that certain States had interposed obstacles to the collection of British debts. The States, said Adams, must either repeal these laws, or give Congress full power over commercial regulations, so that a compulsory influence may be exerted on Great Britain.[6]

Again, Adams called on the Tripolitan ambassador in London, who unblushingly told him that Tripoli was at war with America because she attempted to navigate the Mediterranean without paying tribute. Adams told Jay that a description of this conference might be better for harlequin than for Congress, though there was civility enough shown on both sides "in a strange mixture of Italian, lingua Franca, broken French, and worse English."[7] Adams was in doubt whether this Tripolitan was a consummate politician or a philosopher, as he complacently called himself.

The Tripolitan mildly intimated that 30,000 guineas might induce his government to make a treaty which would exempt American shipping from devastation; but that it was probable that Tunis, Morocco, and Algiers would each demand as much or more. So Adams was obliged to communicate to his impoverished country that a sum of not much short of two hundred thousand pounds would be necessary to secure the desired immunity. "The fact cannot be altered, and the truth cannot be concealed," he adds to Jay.[8] "Never," he said again,[9] "will the slave trade be abolished while Christian princes abase themselves before the piratical ensigns of Mahomet." Yet such were the requirements that he wrote to Bowdoin, of Massachusetts, pressing that two or three hundred thousand guineas spent in this way was cheaper than the cost of a war; and then reverting to what Congress had to spare for the purpose, he called it a sum that would be worse than thrown away. Adams and Jefferson were not wholly in accord in this matter; for while Adams reckoned the costs of a war with the Barbary powers, Jefferson revolted at the abasement of a tribute, and hoped to join with Italy and Portugal in an expedition against them. This required ships, and Adams knew the difficulties of getting the States to respond to any naval requisition of Congress. They were indeed quite content that Portugal should order her fleet in the Mediterranean to protect American vessels, as she did in 1786.[10] A treaty was finally negotiated with Morocco by Thomas Barclay,

1 *Works*, viii. 289.

2 *Works*, viii. 302.

3 Richard Price had published in 1784 his *Observations on the importance of the American Revolution* (London, 1784; Boston, 1784; New Haven, 1785, etc.). There were two remarks upon it made by him in a letter to Governor Trumbull, which indicated the springs of some of the difficulties soon to be encountered by the struggling States: "I find my tract has given offence in the Southern States by advising the gradual abolition of negro slavery and measures for preventing too great an inequality of property." Then he refers to the advent of John Adams in London as American minister, with a foreboding of the futility of his mission, "for there is still an hostility among us against your country." An English translation of Mirabeau's reflections upon Dr. Price's pamphlet was printed, with corrections, at Philadelphia in 1786.

4 Adams's *Works*, viii. 313.

5 Adams's *Works*, viii. 357; *Secret Journals*, iv. 186; Morse's *John Adams*, p. 231.

6 Cf. letter of Rufus King in *Mass. Hist. Soc. Proc.*, ix. 8.

7 Adams's *Works*, viii. 372, 373; *State Papers, For. Relations*, i. 106.

8 Adams's *Works*, viii. 379.

9 *Ibid.* 388.

10 *Secret Journals*, iv. 288.

under the approval of Adams and Jefferson; but this was the only one of the African States which entered into treaty stipulations before the Constitution was put in force.[1]

Jefferson's career in France was characteristic. He lost no opportunity to inculcate his principles of free trade. He did his best to buy American captives out of Algerine prisons. He strolled among the book-stalls, and notified his friends at home of all the new inventions. He purloined a little Italian rice and sent it to the Carolina planters for seed. He published his *Notes on Virginia* in English and French. He conferred with the political mentors of the coming French Revolution, and wrote to Jay to induce the shipment of American flour for the starving Parisians.

The treaty of commerce which England concluded with France in 1786 was not encouraging. Adams wrote: "France and England are both endeavoring at this moment to impose on each other. The secret motive of both is to impose upon the United States. . . . The time is not far distant when we may see a combination of England and the House of Bourbon against the United States. It is not in gloomy moments only, but in the utmost gaiety of heart, that I cannot get rid of the persuasion that the fair plant of liberty in America must be watered in blood."[2] With these forebodings, Adams had, as early as Jan., 1787, expressed a wish to be recalled. He wrote to Jay that "a life so useless to the public and so insipid to myself, as mine is in Europe, has become a burden to me as well as to my countrymen."[3] Congress granted his request, Oct. 5, 1787. Great Britain meanwhile had not condescended to send any minister or other accredited agent to America.[4]

B. The Financial Problems. — The division among the people on the subject of specie and paper money was so engrossing that at times little else seemed to engage the public attention. It was necessarily associated very closely with the chief interests of the country.

We get a sense of the variant views on the management of the treasury, prevailing just after the war, in such letters as that of Samuel Osgood, printed in *Mass. Hist. Soc. Proc.*, v. 470. Cf. the lucid presentation of the failure of credit after the war, in John Fiske's paper in the *Atlantic Monthly*, July, 1886. Robert Morris had been called to the head of the treasury, in place of a committee, and Hamilton, fraternizing with him, and looking forward for the supplanting of the "futile and senseless Confederation," had expressed his belief in a national debt as a national blessing, if it be not an excessive debt. Morris's cure-all was a national bank, and it was finally chartered by Congress (Dec. 31, 1781) as the Bank of North America. Morris, however, felt obliged to give it a legal status by a charter from Pennsylvania in 1783. Madison and others were jealous of its prerogatives, and hampered it where they could. Its right to exist was the occasion of a struggle in the Assembly of Pennsylvania. The bank remunerated the stockholders, but was of comparatively little help to the government of the country; and Morris finally went out of office, announcing the inability of the Treasury to meet the interest on its foreign loans.[5]

In 1783 the domestic loans of the United States amounted to $34,115,290, its foreign to $7,885,085, — or a total of $42,000,375. To pay the interest on such amounts between 1782 and 1786, requisitions for over $6,000,000 were made on the States, and only about $1,000,000 was received. To meet the interest on the foreign loans, money was borrowed in Europe. The domestic creditors had nothing done for them; and sometimes, when they sold their claims, they got no more than a tenth of the face.[6]

Each State was fighting the baleful campaigns of paper-money discussions in its own way, reliantly and triumphantly like Connecticut, meanly and disastrously like Rhode Island and North Carolina, — the very States that stood aloof as long as they dared when the Federal Constitution was under consideration. Diverse legislation, here and there, impaired the obligations of contracts.

Bancroft (final revision, vi. 167, etc.) summarizes the ways in which the several States eman-

[1] *Secret Journals*, iv. 349. The treaty was ratified July 18, 1787. Cf. Jefferson's *Writings; State Papers; Foreign Relations*, vol. i.; Schuyler's *American Diplomacy* (N. Y., 1886), ch. 4; Sparks's *Diplom. Corresp.*, 1782–1789 (1st ed. 1833; in 7 vols.; 2d ed. 1837, in 3 vols.); Sparks's *Washington*, x. 60.

Jefferson's correspondence while minister in France is printed in T. J. Randolph's edition, and what portion is there omitted of John Adams's letters to him are given in Adams's *Works*, viii. Cf. Morse's *Jefferson*, ch. 7.

[2] *Works*, viii. 416.

[3] *Works*, viii. 429.

[4] On the diplomacy of this period, see Trescot's *Dipl. Hist.*, 1789–1801, opening chapter; *Amer. Quart.*, xvi. 454; *N. Amer. Rev.*, xxxix. 302.

[5] Cf. Sparks's *Gouverneur Morris*, iii. 437, for G. Morris's views.

[6] Rafael A. Bayley's *National Loans of the United States, from July 4, 1776, to June 30, 1880*, as prepared for the tenth census of the United States (Washington, 1881). Cf., on the financial straits of the Confederation, Curtis's *Constitution*, i. 172.

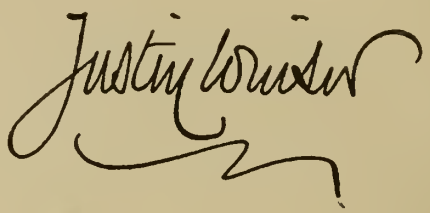
cipated themselves from the entanglements of their paper bills. He says (vi. 20) that the pamphlet *Observations on the nature and use of paper credit* (Philad., 1781), ascribed by Madison to Pelatiah Webster, was written in fact by William Barton.

Rhode Island made it penal to refuse paper money at par, but a valiant butcher carried it to the courts, and was sustained in his honest fight for hard money, and the record of the trial has passed into jurisprudence as one that is famous.[1]

For the subject generally, see references, *ante*, pp. 81, 82.

Gouverneur Morris had submitted a plan for a coinage, and, amended by Jefferson, it became a law, and foreshadowed our present system, as it was later perfected by Hamilton. McMaster (i. 189) represents the varieties of coins in use, and their values.

[1] James M. Varnum, *The case of Trevett against Weeden on information and complaint for refusing paper bills in payment for butcher's meat in market at par with specie, tried before the honorable Superior Court in the county of Newport, September term, 1786; also the case of the judges of said court*, etc. (Providence, 1787).



CHAPTER IV.

THE CONSTITUTION OF THE UNITED STATES, AND ITS HISTORY.

BY MR. GEORGE TICKNOR CURTIS.

THE Convention to consider a change of government assembled at Philadelphia on May 14, 1787. The delegations of Connecticut and New Hampshire arrived some weeks after that date, and Rhode Island did not send any delegation at all. This body of men, assembled for the unprecedented purpose of thoroughly reforming the system of government with the authority of the national will, comprised a representation of the chief ability, moral and intellectual, of the country; and in the great task assigned to them they exhibited a wisdom, a courage, and a capacity which had been surpassed by no similar body of lawgivers ever previously assembled. The world had then seen little of real liberty united with personal safety and public security; and it was an entirely novel undertaking to form a complete system of government, wholly independent of tradition, exactly defined in a written constitution, to be created at once, and at once set in motion, for the accomplishment of the great objects of human liberty and social progress. Their chief source of wisdom was necessarily to be found in seeking to avoid the errors which experience had shown to exist in the Articles of Confederation. Naturally the individual members of the Convention were men of widely different views; the debates extended over four months' time; but the counsels of the leading spirits at last prevailed, — of such men as Hamilton, Madison, Franklin, Gouverneur Morris, Edmund Randolph, and Rufus King. Washington was the presiding officer. Each State had one vote.

The American people had been originally thirteen distinct colonies, with no political connection with each other. When they were in some degree united under the Confederation, that union was formed on the principle of a league, — a compact between sovereign States for certain purposes. But this principle never has enabled, and probably never will enable, a government to become effective and permanent. The idea of government implies sovereignty, and when the parties to a federal union are themselves political governments and sovereigns, the two authorities necessarily conflict. The new idea to be developed now was, that the future union must be, not a mere *federal league* between *States*, but a *union* between the *people* of

the several States. This principle, strongly insisted on by Hamilton and others, was not entertained by all the members of the Convention, many adhering to the opinion that the existing federative union could be made efficient by engrafting new powers upon it. These two parties — the one contending for more comprehensive national powers, and the other adhering to the principle of state rights and interests, which began to show themselves soon after the States had asserted their independence — represented ideas which have existed in our system ever since that day, and which are not entirely separable from it. There can be but one supreme power over the same subjects in the same community; and although, by the Articles of Confederation, some portion of the sovereign power of each of the separate States had been vested in a general government, that government had been found incapable of resisting the great power that had been reserved to the States and was constantly exerted by them. The scheme now presented to the consideration of the Convention was that the *people* of the several States should withdraw entirely certain functions of government which they had previously vested in their state governments, and confer them upon a national authority; that the two kinds of authority should be entirely distinct and separate from each other, each to be exercised in its own department directly upon the people, and not, as heretofore, one upon the other.

Another amendment to be made in the old system was to create a government of three distinct departments: legislative, executive, and judicial. The Congress of the Confederation consisted of a single body of men whose office combined (in a way that could never prove efficient) all these divisions of power. The people of the country were accustomed to complex governments in their state constitutions, and to apply this principle to the national authority was what Hamilton and other able statesmen had long wished to do. These views of government were included in a scheme, called the Virginia plan, which was presented to the Convention in a series of resolutions submitted by Governor Randolph of Virginia. They were opposed by a minority party consisting of the smaller States, who advocated the principle of State Rights, and whose plan was brought forward by the members from New Jersey. The latter, called the New Jersey plan, was of a purely federal character, and proposed to add a few new powers to the existing system, rather than to substitute a national government. The long existence of the distinctions between the different States, the settled habit of the people of the States to act only in their separate capacities, their adherence to state interests, and their strong prejudices against all external power, had prevented them from contemplating a government founded on the principle of a national unity among the populations of their different communities, and the mode of reconciling the coördinate existence of a national and a state sovereignty had undergone no public discussion. The two parties, who upheld respectively the Virginia and the New Jersey plans, early came to a serious issue on the question of the source and the

basis of representation in the national legislature. That it should consist of two houses was agreed; but the advocates of a purely national system wished to have a proportionate representation of the people in each house, while the upholders of a federal system insisted upon an equal representation of States. The latter urged that a popular election would be too democratic, and that the state legislatures would be more likely to appoint suitable persons. On the other side it was insisted that it was necessary to introduce a true democratic principle into the government; the broadest possible basis, it was said, ought to be given to the new system, and as the system was to be republican, a direct representation of the people was indispensable. The question of the *origin* of the two houses was settled with comparative ease. One objection to the Virginia plan was pointed out by Hamilton. This was that it presented a democratic house checked by a democratic senate. The necessity of providing some means by which the States, as States, might defend themselves against encroachments of the national government, was seen by all; and this produced a unanimous vote in favor of giving to the state legislatures the appointment of the less numerous branch of the national legislature, afterwards called the Senate. But the alternatives of an equal or a proportionate representation created a prolonged and hot discussion; and it was not until the absolute refusal of a formidable minority of the smaller States (those who contended for an equal representation) threatened a dissolution of the Union itself, and all the evils of coming dissension and strife, that a compromise was agreed upon. Each party argued with the energy of firm conviction, but these were men capable of the highest of the moral virtues, and their magnanimity was as great as their intellectual acuteness and strength. The Constitution of the United States is the result of their mutual concessions to each other, for the sake of that union which all knew to be their only hope of strength and safety. The first great compromise of the Constitution, that between a purely national and a purely federal system, gave the States an equal representation in the Senate, and the people a proportionate representation in the House. The establishment of a definite, equitable ratio of popular representation in the House occasioned considerable difficulty. Objections existed to founding such a ratio upon the number of voters in the several States, because the elective franchise had been conferred in the different States upon very different principles, — upon the number of white inhabitants alone, for some States had large numbers of free blacks, and regarded them as citizens; or upon the whole number of free inhabitants, which would take from the large slave-holding States their rightful position of comparative importance. It was finally found necessary to treat the slaves as inhabitants, and not as chattels or property; and it was decided to adopt as the most equitable ratio the whole number of free inhabitants and three fifths of all other persons, except Indians not paying taxes.

The general principles on which the powers of the national legislature

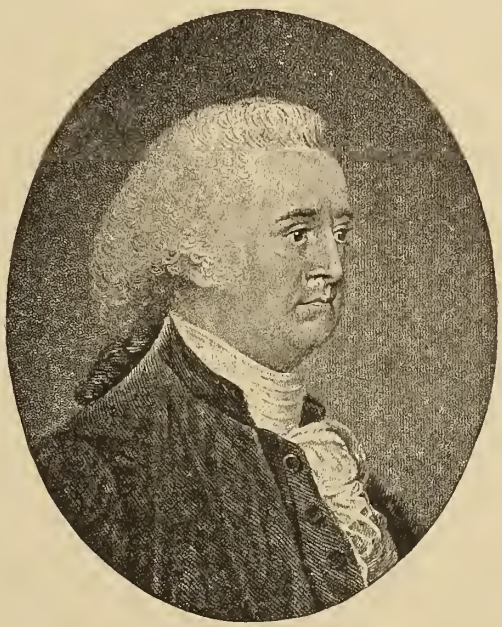
were to be regulated were declared with a great degree of unanimity. That it ought to be invested with all the legislative powers belonging to the Congress of the Confederation was conceded by all. This was followed by the nearly unanimous declaration, that the legislative power ought to embrace all cases to which the state legislatures were incompetent, or in which the harmony of the United States would be interrupted by the exercise of state legislation. But the Convention also went much further, and, without discussion or dissent, declared that there ought also to be a power to negative all laws passed by the several States contravening, in the opinion of the national legislature, the Articles of Union, or any treaties made under the authority of the Union. The somewhat crude idea of making a negative on state legislation a *legislative* power of the national government shows that the discovery had not yet been made of exercising such a control through the judicial department.

The construction of a national executive was attended with great diversity of opinion. Whether the executive should consist of one or of three persons; whether the election should be given to the people or to the national legislature; whether a negative upon the acts of the legislature should be attached to the office, — were questions, the decision of some of which proved at this time not final. It was determined that a single executive should be elected by the national legislature for the term of seven years, and that he should be ineligible to a second term. A proposition that the executive should be chosen by electors who should be chosen directly by the people met with no favor at first.

The third main division of the government, the judiciary, was now considered. One of the leading objects in forming the Constitution was to obtain for the United States the means of coercion, without a resort to force against the people of the States collectively. This could be done only by making the authority of the government supreme in relation to the rights and powers that might be committed to it; and it could be made so only by applying its legislation to individuals through the intervention of a judiciary. The judiciary is the department which not only acts as the arbitrator in particular controversies, but in so doing declares the construction of the laws. It was determined that the jurisdiction of the national judiciary should extend to all cases which respect the collection of the national revenue, to impeachments of national officers, and to "questions which involve the national peace and harmony." This latter provision placed the general objects, which it was declared ought to be embraced by the legislative power, within the cognizance of the judiciary; but the idea of vesting in the judicial department such control over the legislation of the separate States as might be surrendered by them to the national government was not yet propounded. The judges were to hold office during good behavior, and their appointment was at this time vested in the Senate. Provision was also made for the admission of new States into the Union, for the power to protect and uphold the republican governments of the States, and

for the amendment of the Articles of Union. Lastly, it was settled that the Senate should consist of two members from each State, and that they should vote *per capita*. It was decided at this time that landed property, as well as citizenship in the United States, should be included in the qualifications to be required of the executive, the judiciary, and the members of both branches of the legislature.

Such was the character of the system which was now (July 24) sent to a committee of detail, to be cast into the form of a constitution. The committee consisted of Messrs. Rutledge, Randolph, Gorham, Ellsworth, and Wilson. This committee presented their report on the 6th of August, in the shape of a Constitution divided into twenty-three Articles. Two important subjects which this committee had to discuss were: first, what classes among the people were to have the right of voting for members of the popular branch of the legislature; and, secondly, what persons were to be eligible to that and to the other branch. In substance, these questions resolved themselves into the inquiry, in whom was the power of governing America to be vested; for, according to a decision of the Convention not yet reversed, the national executive was to be chosen by the national legislature. As to the first of these questions, the stream of foreign immigration which was constantly flowing into the country rendered it very probable that foreign influence might be attempted in America. On the other hand, it was important that the advance of the country in wealth and prosperity should not be impeded by any check to the growth of the population. The result of much deliberation on this subject was, that the same persons who, by the laws of the several States, were admitted to vote for members of the most numerous branch of their own legislatures, should have the right to vote for their representatives in Congress; and the power of naturalization was transferred from the States to the general government. The question of admitting persons of foreign birth to positions



JOHN RUTLEDGE.*

* [From the *National Portrait Gallery*, 1839, vol. iv., following a drawing by James Herring, after an original picture by Colonel Trumbull. — Ed.]

in the government was a serious one. There was extreme jealousy of all foreign interference in political concerns; yet, on the other hand, to exclude all but native-born citizens would have been to deprive the country of the services of such men as Hamilton, Wilson, and Robert Morris, who had thoroughly identified themselves with the destiny of their adopted country. The committee of detail suggested a three years' citizenship for Representatives and a four years' citizenship for Senators. Many thought this an insufficient security, and the time was therefore changed to seven and nine years respectively.

A very important improvement as to the executive department was now made by the committee. A suggestion, originally made some time previously, was revived, namely, that the executive should be chosen by electors, each State to have a number of electors equal to the whole number of its senators and representatives in Congress, and that in case no candidate had a majority of electoral votes, the choice should be made by the Senate. This plan of vesting the ultimate election in the Senate was eagerly embraced by the smaller States, because it was calculated to restore to them the equilibrium which they would lose in the primary election by the preponderance of votes held by the larger States. But when this scheme came before the Convention it was regarded as likely to elevate the Senate into a powerful oligarchy, and to put it in the power of seven States, not containing a third of the people, to elect the President. It met with strenuous resistance. The first part of the scheme was adopted, as avoiding the evils which might result if the executive were to be the tool of the legislature; but the ultimate choice of this officer was transferred from the Senate to the House of Representatives.

But in other matters still the Senate had been made a very powerful body by the committee of detail. They had vested in the Senate the power to make treaties, to appoint ambassadors and judges of the Supreme Court, and to adjudicate questions of boundary between the States; they had given to the two branches of the legislature the power to declare war, while they had assigned the trial of impeachments to the Supreme Court. When these subjects were debated in the Convention, it was soon pointed out that however proper it may be, in a limited and republican government, to vest the power of declaring war in the legislative department, the negotiation of treaties by a numerous body had been found, in our own experience and in that of other republics, extremely embarrassing. However wise may be a jealousy of the executive department, it is difficult to say that the same authority that is entrusted with the appointment of all other officers should not be permitted to make an ambassador or a judge. However august may be a proceeding that is to determine a boundary between sovereign States, it is nothing more and nothing less than a strictly judicial controversy, capable of trial in the ordinary forms and tribunals of judicature, besides being one that ought to be safely removed from all political influences. However necessary it may be that an impeachment should be conducted

with the solemnities and safeguards of allegation and proof, it is not always to be decided by the rules with which judges are most familiar, or to be determined by that body of law which it is their special duty to administer. A comparison of these provisions with the Constitution in its finished form shows that this great instrument is the result of many changes in the original views of its framers, and that every part of it required a very great amount of discussion in order to sift it down to that form which remains as an extraordinary proof of the wisdom and foresight of its authors.

The question of a seat for the national government, with suitable public buildings, was discussed, and power was given to the national legislature to establish a federal town. It was important that the national government should not be subject to the local influences of any great commercial city, and besides, none of these were very near the centre of the Union ; but it was thought that to decide definitely against any of them might create a jealousy that would endanger the adoption of the Constitution itself.

One chief cause for the assembling of this Convention was the necessity for conferring upon the general government the power to regulate the commerce of the whole country and to obtain an adequate revenue. When this subject was taken up, two serious considerations presented themselves : the entire control over commerce would include a power to tax exports as well as imports, and a power to prohibit the slave-trade. Both these powers would operate unfavorably upon the South. The country was so large and its agricultural products were so varied that no export tax would operate equally upon all the States ; neither could one section of the country be balanced against another, — the products of the South against those of the North, for instance. A power to prohibit the importation of slaves would also be detrimental to those Southern States which had not already suppressed it, and which depended upon constant additions to their slave labor. The prohibition of this traffic by national law was strongly wished by the North, because it was considered that the admission of the slaves into the ratio of representation would tend to increase it, and thus the relative influence of the South in the government would be increased. But great stress was laid upon these points by the Southern States ; in fact, North Carolina, South Carolina, and Georgia made a recognition of their claims on these subjects a condition of their acceptance of the Constitution. The committee of detail, therefore, restricted the revenue and commercial powers by providing that no taxes should be laid on exports, and that there should be no interference with the slave-trade. The debates in the Convention upon these matters were long and earnest. The prohibition against taxing exports was finally carried by a considerable majority, but the subject of the slave-trade threatened again the dissolution of the Union. Another difference also divided the North and the South. The Northern States, which were chiefly commercial, contended that the passage of a navigation act ought to be secured simply by a majority of both branches of the legislature ; whereas the committee of detail, in accordance with the views of the

agricultural States, had made a two-thirds vote necessary. The result of all this was the second great compromise of the Constitution. The South agreed not to demand a two-thirds vote upon a navigation act, and the North consented to allow the importation of slaves (subject, however, to a tax) until the year 1808, after which full commercial powers were to reside in the national government.

Thus the main features of the legislative department were finally settled.

The necessity for such an officer as the Vice-President of the United States had not been thought of when the first draught of the Constitution was made; but subsequently it was perceived that the possibility of the executive office becoming vacant must be provided against. It was important that the Vice-President should not be a mere heir to the succession, but should have some public employment. Fortunately, the peculiar construction of the Senate was found to require a presiding officer who should not be a member of the body itself. As each State was to be represented by two delegates, and as it would be important not to withdraw either of them from active participation in the business of the chamber, a presiding officer was needed who would represent none of the States. By placing the Vice-President in this position he would have a place of dignity and importance, would be at all times conversant with the public interests, and might pass to the chief magistracy, on the occurrence of a vacancy, attended with the public confidence and respect. The ultimate election of the Vice-President, when the electors had failed to appoint him under the rule prescribed, was retained in the hands of the Senate, on account of his relation to this branch of the legislature. The question of a council of state, or advisory body to assist the President in the discharge of his duties, was discussed in the Convention. But it was considered by a majority of the members that the nature of the office required that the President's responsibility should not be shared with any one. Power was given to him, however, to "require the opinion in writing of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices." Thus, though the officers now known collectively as "the Cabinet" are not distinctly provided for in the Constitution, the foundation was laid for the custom which has been established of holding regular meetings of those officers, who advise the President, but have no power of controlling his actions, and do not in any way diminish his legal responsibility.

In the judicial department of the government, several important changes were made in the plan as presented by the committee of detail. Controversies between States respecting jurisdiction or territory, and questions concerning any conflict between state and national laws, originally vested in the Senate, were transferred to the judiciary. The plan of the committee was silent with respect to the important distinction, familiar to the people of the United States, between proceedings in equity and proceedings at common law. This distinction, which extends not only to the forms of pleading, but to the principles of decision, the mode of trial, and the nature

of the remedy, had been brought by the settlers of most of the colonies from England, and had been perpetuated in their judicial institutions. The Convention supplied this defect.

The fourth article of the Constitution was designed to place the people of the separate States in more intimate relations with each other by removing in some degree the consequences that would otherwise flow from their distinct and independent jurisdictions. This was to be done by causing the rights and benefits resulting from the laws of each State to be, for some purposes, respected in every other State. Independent nations are under no positive obligation to support the institutions or to enforce the municipal laws of each other. So far does this negative principle extend, that the general law of nations does not even require the extradition of fugitive criminals who have escaped from one country into another. If compacts are made for this purpose, they rest entirely upon comity, and upon those considerations of public policy which make it expedient to remove from our own borders those who have violated the great laws on which the welfare of society depends. The American States agreed to surrender to each other all fugitives from justice, and all slaves who should escape from lawful service. The domestic law which sanctions slavery in one independent nation is, like other domestic laws, not generally recognized in other countries where this relation does not exist. But among the American States, many of which were about to abolish slavery within their own limits, a practice which would have encouraged the flight of slaves out of States where their service was lawfully due would have worked endless trouble. It would have been an interference with the domestic concerns of certain States, and this the spirit of the Constitution could not allow. Hence the clause relating to fugitives from service was adopted in the Convention by unanimous consent.

The last articles of the Constitution related to subjects on which there was little difference of opinion in the Convention, except in regard to the details; they were provisions obviously necessary to be made, and they did not occasion much debate. The fifth article, which provides for amendments, affords a striking illustration of the difference between the character of the government established by the Constitution and that of the Confederation. The latter, from its nature as a league between States otherwise independent of each other, was made incapable of alteration excepting by the unanimous consent of the States. In the Constitution a mode was devised by which changes in the organic law could become obligatory upon all the States by the action of a less number than the whole.

On the 17th of September the Constitution was signed by the individual members of the Convention representing the various States. Many of them were not satisfied with all its details; but they considered the choice to be between anarchy and convulsion on the one side, and chances of good to be expected of this plan on the other; and they all signed it except Luther Martin of Maryland, Randolph and Mason of Virginia, and Gerry of Massachusetts. Yates and Lansing of New York had retired, dissatisfied, from

the Convention on the 5th of July, and after that date the vote of the State was not taken. New York, therefore, was not regarded as officially present when the Constitution was signed; but in order that the proceedings might have all the weight that a name of so much importance could give to them, in the place that should have been filled by his State was recited the name of "Mr. Hamilton, from New York." A letter was prepared to accompany the Constitution, and to present it to the consideration and action of the existing Congress. The Convention was then dissolved, on the 17th of September. On the 19th the new Constitution was printed in the newspapers of Philadelphia, and it was at once copied into the principal journals of all the States.

The public mind had been very much excited during the four months in which this Convention had sat with closed doors. Various false rumors were afloat; among others, the idea that the Convention contemplated the establishment of a monarchy and a reconciliation with England. The Constitution immediately met with warm friends and many opponents. As it presented itself to the people in the light of a proposal to enlarge and reconstruct the system of the Federal Union, its advocates became known as the "Federalists," and its adversaries as the "Anti-Federalists."

On the adjournment of the Convention, Madison, King, and Gorham, who held seats in the Congress of the Confederation, hastened to the city of New York, where that body was then sitting. They found all the States represented except Maryland and Rhode Island; but they found also that an effort was likely to be made either to arrest the Constitution on its way to the people of the States, or to subject it to alteration before it should be sent to the legislatures. It was received by official communication from the Convention in about ten days after that assembly was dissolved. All that was asked of the Congress was that they should transmit it to their constituent legislatures for their action, and, after much opposition, this was finally done, chiefly through the address and skill of Mr. Madison. By a unanimous vote of the States present, the Congress adopted a resolution which, while it contained no approval of the Constitution, abstained from interfering with it as it came from the Convention, and transmitted it to the state legislatures, "in order to be submitted to a convention of delegates chosen in each State by the people thereof, in conformity to the resolves of the Convention."

In general, and especially in New York, the first impressions were in favor of the Constitution; but the governor of New York, George Clinton, and a considerable party in political power, opposed it, as they had opposed the revenue system of 1783, because they regarded the Union with jealousy, and steadily resisted the surrender to it of any further powers. It became evident that the Constitution could be carried in the State of New York in no other way than by a thorough discussion of its merits, such a discussion as would cause it to be understood by the people, and would convince them that its adoption was demanded by their interests. For this purpose,

Hamilton, Madison, and Jay, under the common signature of *Publius*, commenced the publication of a series of essays which became known as "The Federalist." The first number was issued in the latter part of October.

The Constitution was sent to the state legislatures by the Congress of the Confederation on the 28th of September, 1787. From that time, during ten months it was under consideration by the States. In each State special conventions were held of delegates chosen by the people for this express purpose. The first State that ratified the Constitution, although its convention was not the first to assemble, was Delaware. Its public men were intelligent and patriotic. In the National Convention it had contended with great spirit for the interests of the smaller States, and its people now had the sagacity and good sense to perceive that they had gained every reasonable security for their peculiar rights. The public press of Philadelphia friendly to the Constitution furnished the means of understanding its merits, and the discussions in the convention of Pennsylvania, which assembled before that of Delaware, had much influence in the latter State. Their delegates unanimously ratified and adopted the Constitution on the 7th of December.

The convention of Pennsylvania met before that of any of the other States, at Philadelphia, on the 20th of November. This was the second State in the Union in population. Its chief city was perhaps the first in the Union in refinement and wealth. The Constitution encountered considerable opposition in the convention; but through the exertions of James Wilson, one of the wisest and ablest of its framers, and Thomas McKean, then chief justice of Pennsylvania and afterwards its governor, it was adopted by a vote of forty-six to twenty-three, on the 12th of December.

The convention of New Jersey was in session at the time of the ratification by Pennsylvania. The people of New Jersey alone, of all the States, when the National Convention was instituted, had expressly declared that the regulation of commerce ought to be vested in the general government. They had learned that they could not submit longer to the diverse commercial and revenue systems in force in New York on the one side of them, and in Pennsylvania on the other side. Their delegates unanimously ratified the Constitution on the 12th of December.

The State of Georgia also assented unanimously to the Constitution on the 2d of January, 1788. This State was too far south to be influenced by the events which were taking place in the north; but her situation as a border State, exposed to the powerful and cruel Creek Indians on the west and an unfriendly Spanish colony on the south, gave her strong motives for embracing the protection promised by the Constitution.

In Connecticut the Constitution was ratified by a large majority on the 9th of January. There was some opposition to it, proceeding principally from that portion of the people who resisted whatever tended to the vigor and stability of government, — a spirit that existed to some extent in all

the New England States. The topic which formed the chief subject of all the opposing arguments was the general power of taxation which it would confer on the national government, and the particular power of laying imposts. The successful defenders of the Constitution were Oliver Ellsworth, one of its framers, Oliver Wolcott, Richard Law, and Governor Huntington.

These five States ratified the Constitution without any formal record of objections, and without proposing or insisting upon amendments. The conventions of Massachusetts, New York, and Virginia were still to meet, and each of them was full of elements of opposition of the most formidable character, and of different kinds, which made the result of all of them extremely doubtful. If all the three were to adopt the Constitution, still one more must be gained — either New Hampshire, Maryland, or North or South Carolina — to make the nine which were required to form the new union ; and unfortunately the convention of New Hampshire was to meet five months before those of Virginia and New York, and a large number of its members had been instructed to reject the Constitution.

The convention of Massachusetts met on the 9th of January. In this State the Constitution was exposed to a peculiar hazard, which made it necessary to procure its ratification by a kind of compromise with the opposition for a scheme of amendments. In no State was the spirit of liberty more jealous and exacting. The state constitution contained the most impressive maxims and the most solemn securities with which public liberty has ever been invested; and the new Constitution was regarded by many as defective. Another considerable party represented such persons as had been concerned in the recent Shays rebellion.

Among the leaders of the opposition was Samuel Adams. The friends of the Constitution were men of great force, such as Parsons, King, Gorham, Bowdoin ; but some of the elements of which the opposition was composed could not be controlled by any superiority in debate. So far as their objections related to the powers to be conferred on the general government, or to the structure of the proposed system, they could be answered, and many of them could be, and were, convinced. But with respect to what they considered the defects of the Constitution, theoretical reasoning, however able, could have no influence over men whose minds were made up. Therefore Hancock at last laid before the convention a proposition for certain amendments. He suggested a form of ratification which contained a distinct and separate acceptance of the Constitution, followed by a recommendation of certain amendments and an injunction addressed to the representatives of the State in Congress to insist at all times on their being considered and acted upon in the mode provided by the fifth article of the Constitution. After considerable argument, a few of the more candid members of the opposition were convinced, and the Constitution was ratified on the 7th of February by a majority of nineteen votes. Immediately after this, many members of the opposition expressed their determination, now that it had received the assent of a majority, to

exert all their influence to induce the people to anticipate the blessings which its advocates expected from it. This course of the opposition in Massachusetts was observed elsewhere, and it had considerable influence upon the action of some of the remaining States.

In the convention of New Hampshire, which assembled immediately after that of Massachusetts was adjourned, although there was a majority who, either bound by instructions or led by their own opinions, would have rejected the Constitution if required to vote upon it immediately, yet that same majority was composed chiefly of men willing to hear discussion, willing to be convinced, and likely to feel the influence of what had occurred in the leading State of New England. There was a body of Federalists in New Hampshire acting in concert with the leading men of that party in Massachusetts. They caused the same form of ratification and the same amendments which had been adopted in the latter State, with some additional ones, to be presented to their own convention; and eventually, though not until June 21st, after an adjournment, they gained the assent of their State.

Six States only, therefore, had adopted the Constitution at the opening of the spring of 1788. The convention of Maryland assembled at Annapolis on the 21st of April. The convention of South Carolina was to follow in May, and the conventions of Virginia and New York were to meet in June. So critical was the period in which the people of Maryland were to act, that Washington considered a postponement of their decision would cause the final defeat of the Constitution; for if, under the influence of such a postponement, following that of New Hampshire, South Carolina should reject it, its fate would turn on the determination of Virginia. The people of Maryland appear to have been fully aware of the importance of their course. They not only elected a large majority of delegates known to be in favor of the Constitution, but a majority of the counties instructed their members to ratify it as speedily as possible, and to do no other act. This settled determination not to consider amendments, and not to have the action of the State misinterpreted, or its influence lost, gave great dissatisfaction to the minority. Their efforts to introduce amendments were disposed of quite summarily. The majority would entertain no proposition but the single question of ratification, which was carried by sixty-three votes against eleven, on the 28th of April.

This was followed by the accession of South Carolina on the 23d of May. Notwithstanding a majority of seventy-six votes, there had been a strong opposition, chiefly directed against the commercial power of the Constitution, which would enable a majority in Congress to exclude foreign vessels from the carrying trade of the United States, and so far to enhance the freights on the products of South Carolina. Several amendments were added to the ratification to be presented to Congress for consideration, three of which were substantially the same with three of those proposed by Massachusetts.

A very full convention of delegates of the people of Virginia assembled at Richmond on the 2d day of June, embracing nearly all the most eminent public men of the State, excepting Washington and Jefferson. The contest was earnest and protracted. The Federalists were led by Madison, and the opposition by Patrick Henry. The constant theme of the latter was the danger threatened to the spirit of American liberty and state independence, which he asserted would be the result of the proposed consolidated government. The month of June was a very critical and anxious time for the friends of the Constitution. On the 17th, New York's convention met at Poughkeepsie; and in that State, as well as in Virginia, the issue was exceedingly doubtful. Only one more State was required to complete the nine necessary to a union. At this crisis an adverse decision by either of these States or by New Hampshire, whose adjourned convention had not yet acted, might have a fatal influence on the remaining States. But within four days of each other New Hampshire and Virginia gave their final assent to the Constitution, the former on the 21st, and the latter on the 25th by a majority of ten votes. Virginia added a long list of amendments, together with a bill of rights, to be presented to Congress for its consideration.

The victory for the Constitution in New York, against immense opposition, was won chiefly by Hamilton, assisted by Chancellor Livingston, John Jay, and James Duane. The Anti-Federalists, led by Governor Clinton, were very determined in their resistance; and their chief objection to the Constitution was the general power of taxation that would be conferred upon the national government. At last they brought forward a form of conditional ratification, with a bill of rights prefixed, and with amendments subjoined. After a long debate the Federalists succeeded in procuring a vote to change the proposition, so that, in place of the words "on condition," the people of the State would be made to declare that they assented to and ratified the Constitution "in full confidence" that, until a general convention should be called for proposing amendments, Congress would not exercise certain powers which the Constitution conferred upon it. A circular letter was then adopted, to be sent to all the States, recommending a general convention; and on the 26th of July the ratification, as thus framed, was carried by thirty affirmative against twenty-seven negative votes. By this slender majority of her delegates, and under circumstances of extreme peril of an opposite decision, did the important State of New York accept the Constitution of the United States and become a member of the new government. But the Federalists were considerably censured by their friends in other States for having acceded to the proposal for a second general convention. That there was danger lest another general convention might result in serious injury to the Constitution, perhaps in its overthrow, was a point on which there was probably no difference of opinion among the Federalists, and Hamilton and his associates undoubtedly saw the danger as well as any one. But the facts of the

case, and the importance of bringing New York into the new Union, afford a sufficient vindication of the course pursued by the Federalists in her convention. There was far less danger to be apprehended from a mere call for a second general convention than from a rejection of the Constitution by the State of New York; and they had to choose between these alternatives. The assembling of a general convention was superseded by the action of Congress upon the amendments proposed by the States.

Thus had eleven States, at the end of July, 1788, unconditionally adopted the Constitution; five of them proposing amendments for the consideration of the first Congress that would assemble under it, and one of the five calling for a second general convention to act upon the amendments desired. Two other States, however, North Carolina and Rhode Island, still remained aloof. The convention of North Carolina sat from July 21st to August 2d. It was evident from the first that an unconditional ratification could not be obtained. The Federalists contended strenuously for the course pursued by the other States which had proposed amendments, but they were overpowered by great numbers; and the convention was dissolved after adopting a resolution declaring that a bill of rights and certain amendments ought to be laid before Congress and the convention that might be called for amending the Constitution, before North Carolina could be prepared to ratify it. But in order, if possible, to place the State in a position to accede to the Constitution at some future time, and to participate fully in its benefits, they also declared that, having thought proper neither to ratify nor to reject it, and as the new Congress would probably lay an impost on goods imported into the States which had adopted it, they recommended the legislature of North Carolina to lay a similar impost on goods imported into the State, and to appropriate the money arising from it to the use of Congress.

The elements which formed the opposition to the Constitution in other States, received in Rhode Island development and aggravation from the peculiar spirit of the people and from certain local causes. The colony of Rhode Island was established upon the broadest principles of religious and civil freedom. Its early founders and rulers, flying from religious persecution in the other New England colonies, had transmitted to their descendants a natural jealousy of other communities, and a high spirit of individual and public independence. When the States entered into the confederacy, therefore, the people of Rhode Island were singularly reluctant to part with any power to the central authority. They took no part in the formation of the Constitution. When the Constitution was received by the State in 1787, the general assembly refused to call a convention, and simply referred it to the freemen in their several town meetings, by whom it was rejected. North Carolina finally ratified the Constitution November 21, 1789; and Rhode Island followed on May 29, 1790.

Running through the whole period from the adoption of the Constitution to the close of the late civil war, the history of opinion concerning the

nature of the Constitution is of peculiar interest and importance. The diversity of opinion began in 1798, during the presidency of John Adams, after the passage of two acts of Congress known as the Alien and Sedition Laws, which were believed to be unconstitutional, and were, at all events, high-handed measures. They were vigorously denounced by the legislatures of Virginia and Kentucky in certain resolutions, which have been famous in our political history as "the Resolutions of 1798." They enunciated certain doctrines respecting the legitimate mode of encountering acts of the Federal government supposed to be unconstitutional. The chief dogma which they propounded was that the Constitution is "a compact to which the States are parties;" and the conclusion enunciated was, that, "in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the States, who are parties thereto, have the right and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them." But the Resolutions did not define the mode in which the States were to "interpose." Thirty years afterward, when the era of nullification occurred, Mr. Madison, who in 1798 was concerned in drafting the Virginia Resolutions, made a public explanation of his understanding of their meaning. He pointed out that the seventh resolution of the Virginia series called upon all the States to unite with Virginia in denouncing the Alien and Sedition Laws as unconstitutional, and in "taking the necessary and proper measures" for co-operating with Virginia "in maintaining the authorities, rights, and liberties reserved to the States respectively, or to the people." Still, inasmuch as "the necessary and proper measures" were not defined, there was left to future times a great uncertainty as to the proper meaning of these resolutions, to which, on account of their source, considerable authority was attached. Jefferson had some hand in preparing the corresponding resolutions passed by the legislature of Kentucky; but neither he nor Madison considered that they comprehended the doctrine of nullification that was broached in South Carolina in 1830–33.

During the war of 1812–15, the measures of the Federal government, which fell with great severity on the New England States, led the legislatures of Massachusetts, Connecticut, and Rhode Island, and the counties of Cheshire and Grafton in New Hampshire, to institute the "Hartford Convention," a body composed of delegates of the Federalist party, which assembled at Hartford, in Connecticut, on the 15th of December, 1814, and sat with closed doors. It transpired from their Report, which was afterwards published, that these very eminent and respectable persons contemplated measures to be adopted by the New England States for relief against acts of the Federal government, according to what they considered constitutional principles. Their idea of constitutional methods of relief and resistance approached very nearly to the later doctrine of nullification; but in 1814–15 the emergency which, according to the Resolutions of 1798,

would call for and justify state action, had not actually arisen, although threatened, because the most obnoxious measures of the administration had not become laws, whereas the South Carolina nullifiers in 1830–33 aimed to arrest the operation of a Federal statute within the limits of that State. The Hartford Convention proposed certain restrictive amendments of the Constitution, and their Report recommended another assembly of delegates to meet in June, 1815. But the peace which soon followed superseded further action.

Passing forward to 1830–33, the student of our political history will find that rather vague and crude ideas had been entertained respecting the methods of constitutional resistance to acts of the Federal government supposed to be beyond its proper authority; and that there had descended to the nullifiers the dogma that the Constitution is a "compact" to which the "*States* are *parties*," and its corollary that it is the right and duty of the States to interpose and arrest the progress of the evil. On this as the corner-stone, the theory of nullification was built. Its great expositor was Mr. Calhoun, and it is to his exposition that the student must look for a true estimate of the doctrine, and for a perception of the difference between nullification and secession. Mr. Calhoun had a perfectly clear, comprehensive, and correct idea of the mixed system of government embraced by one great federal community. As he explained it, the primary division is into the constitution-making and the law-making powers; the first being reserved in the hands of the people, and the last being divided between the common and joint government of all the States, and the separate and local government of the States respectively. But in both the powers of government are distributed among three separate and independent departments, — legislative, executive, and judicial. To preserve this sacred distribution as originally made, by causing each to move in its prescribed orbit, he considered to be the great and difficult problem, on the solution of which the duration of the Constitution and the Union and the liberties of the country depended. Thus far he was right. When he came to answer the question, "What provision does the Constitution of the United States or the system itself furnish to preserve this and the other division of powers?" he developed his solution as follows: "From the relations which subsist between co-ordinate governments, and from a law universally applicable to a division of power, whether between governments or departments of government, a mutual negative on the part of each is necessary to protect each from the other; and in a case of conflict as to the limits of their respective authority, neither has the right to impose by force its decision against the other, but must appeal to a power paramount to either, whose decision is final and binding on both. That paramount power in our system is the convention of States, the most august and imposing embodiment of political authority known to the American system of government." And this is the doctrine of nullification. The practical method of its application, devised in South Carolina, was to arrest by a

state ordinance the operation of the obnoxious tariff law of the United States within the limits of that State, and hold it in suspense until a convention of all the States should have decided that it was unconstitutional, or should have made provision for amending the Constitution so as to take away the power assumed and exercised. Hence the term nullification; the state ordinance being supposed to nullify the act of Congress for a time, and until a convention of all the States could act. The theory was apparently a complete and consistent one; and it had, or was believed to have, this merit, that it did not contemplate a withdrawal of the State from the Union, but it claimed to be, and was supposed to be, the exercise of a right within the Union and under the political system established by the Constitution.

In 1830 occurred the celebrated debate in the Senate on the doctrine of nullification between Mr. Hayne, senator from South Carolina, and Mr. Webster, senator from Massachusetts. In this debate Mr. Webster developed the opposite theory of the Constitution, which is that the people of the several States, in and by the Constitution, granted to the Federal government certain enumerated and described sovereign powers, thus constituting a government proper, whose powers are irrevocable by any process of state interposition known to the system; and that within this system there is established a judicial power, by which the conformity of legislative acts with the Constitution must be ultimately determined. No immediate action followed this discussion, but after the passage of the South Carolina ordinance of nullification it became necessary for the Federal government either to recognize and act upon the doctrine of nullification, or to oppose it, and to exert such authority as it possessed to render nullification impracticable. It was clear that an admission of the doctrine of nullification would prove cumbrous and destructive to the operations of government. On the other hand, it was apparent that force of some kind must be used to render nullification impracticable. What this force should be was determined in the following manner: — Mr. Calhoun, who in 1830 was Vice-President of the United States, resigned that position, and was chosen a senator from South Carolina in place of Mr. Hayne, who became governor of the State. Shortly after Mr. Calhoun returned to the Senate, President Jackson sent a message to Congress, transmitting the South Carolina ordinance of nullification and his executive proclamation, in which he had opposed the doctrine of nullification with great vigor, and upon substantially the same grounds taken by Mr. Webster in the debate of 1830. The President also caused to be submitted what was called the Force Bill, which was designed to counteract the state method of arresting the collection of duties levied at the custom-house on imported merchandise, and to empower the Federal courts and the marshal of the district to collect the revenue imposed by law. The proposal of this measure led to another memorable debate in the Senate, between Mr. Calhoun and Mr. Webster, in which the former developed and the latter opposed the theory of the Constitution on which the

supposed right of state nullification depended. The result was that the Force Bill became a law, and that an issue was made, which, however, was not carried out to its ultimate consequences by reason of the interposition of Mr. Clay. He proposed and carried what was called the Compromise Act, which made a gradual reduction of the protective imports through a period of ten years, until they should be brought down to a standard required for the expenses of the government. Thus far, that is, at the close of the year 1833, the result was an assertion by the Federal government of its authority to execute its own laws against all state obstructions, and a concession of the inexpediency at present of pushing that authority to its ultimate consequences. After this, the nature of the Federal Constitution, its authority to enforce its laws, and its power to encounter combinations of States entered into for the purpose of resisting its authority, did not come into much public discussion, until the era of secession, which began in 1860; and in which the right of States to secede from the Union, after every form of discussion and argument had been exhausted, was finally referred to the arbitrament of war.

EDITORIAL NOTES ON THE SOURCES OF INFORMATION.

*** Mr. Curtis has indicated the following books as the leading sources: The *Journals* and *Secret Journals of Congress*. The final revision of Bancroft's *History of the United States*, particularly the sixth volume, on the *History of the Constitution*. Timothy Pitkin's *Political and Civil History of the United States*, 1763–1797. Benjamin Trumbull's *Complete History of Connecticut* (New Haven, 1818). *The Madison Papers*, constituting the fifth volume of Elliot's *Debates; Letters and other Writings of James Madison;* and *The Life and Times of Madison* by W. C. Rives, and the *Madison* of Sydney Howard Gay. Sparks's edition of the *Works of Benjamin Franklin;* the *Memoirs of the Life and Writings of Franklin, by W. T. Franklin;* Duane's edition of the *Memoirs and Works of Franklin*, and *The Life and Times of Franklin*, by James Parton. Sparks's *Life and Writings of Washington;* the *Life of Washington* by Marshall, and the *Life* by Irving. The *Life and Works of John Adams*, ed. by C. F. Adams. The *Writings of Thomas Jefferson*, ed. by H. A. Washington. Sparks's *Life of Gouverneur Morris*. The *Works of Alexander Hamilton*, ed. by J. C. Hamilton; the *Life of Alexander Hamilton*, by the same; the *Life and Epoch of Alexander Hamilton*, by George Shea; the *Life*, by John T. Morse, Jr.; and *The Life and Times of Alexander Hamilton by Samuel M. Smucker*. The *History of the Origin, Formation, and Adoption of the Constitution of the U. S.*, by Mr. Curtis himself, who has also in press *The Constitutional History of the United States from their Declaration of Independence to the close of their Civil War* (N. Y.), in two volumes. For a full explanation of Mr. Calhoun's doctrines respecting nullification, see the oration on his life, character, and public services, delivered at Charleston, S. C., in April, 1887, by the Hon. L. Q. C. Lamar.

The bibliographical detail respecting these books is given elsewhere; and the Editor furnishes in the succeeding notes an enumeration of such additional sources as will serve for more particular study in various departments of the subject.

THERE is no extended bibliography of the Constitution, but the beginnings of one exist in James G. Barnwell's *Reading Notes on the Constitution* (Philad., 1887); W. E. Foster's lists in the *Library Journal*, v. 172, 222; and the references in *Poole's Index* and Jones's *Index to Legal Periodicals* (Boston, 1888); to which may, of course, be added the footnotes of Curtis and

Bancroft.[1] The text of the Constitution is found in almost innumerable places, including documentary compends, and in nearly all the books upon it. The original document is in the Department of State. It first appeared in five different Philadelphia newspapers, Sept. 19, 1787, and was copied that same month into the *Columbian Mag.* and *American Museum*, and before the end of the year it was printed in London.[2]

After the Convention had completed its labor,[3] Washington communicated the Constitution, with a letter, to the Continental Congress.[4] Jackson, the secretary, seems to have taken upon himself the right to destroy "all loose scraps of paper," and then, in accordance with the behests of the Convention, he delivered to Washington, subject to the disposal of the national legislature,[5] "the journals and other papers." What we have lost by Jackson's burning we may never know, but Bancroft (final revision, vi. 306) speaks of various copies of the broadside articles being preserved in the State Department, containing the annotations of Washington, Madison, and others. The official *Journal of the Constitutional Convention* was not printed by Congress till 1818.[6] Luther Martin, a delegate from Maryland, made a communication to the legislature of that State relative to the proceedings of the Convention, and this was printed as *Genuine Information relative to the Proceedings*, etc. (Philad., 1788). It was not of a temper to command entire confidence, and Madison (*Letters*, iv. 289) tells us that there is good ground for believing that Martin became sensible that he had been betrayed by his irritated state of mind "into a picture that might do injustice both to the body and to particular members." Equally unfortunate was another member, Yates of New York, who belonged to the Clinton faction: and when he saw the Convention taking ground in opposition to his own views, he left it in no good humor, having only remained through about a third part of its sessions. He had taken, however, some notes of the debates, so far as he heard them, and these were published as *Secret proceedings and debates of the convention assembled at Philadelphia, in the year 1787, for the purpose of forming the constitution of the United States of America. From the notes taken by Robert Yates, and copied by John Lansing, jun., members of that convention. Including "The genuine information," laid before the legislature of Maryland, by Luther Martin, a member of the same convention. Also, other historical documents relative to the Federal compact of the North American union* (Albany, 1821; Washington, 1836; Richmond, 1839). Madison was annoyed at some parts of Yates's record, and speaks freely of its mutilations, prejudices, inaccuracies, and gross errors.[7] Madison also refers to some notes of Major Pierce which were printed in the *Savannah Georgian* in 1828.[8]

All this while Madison was himself at work

[1] An extended bibliography of books and articles on the Constitution and government of the United States, by Albert B. Hart and Paul Leicester Ford, is in preparation. Mr. Ford is likewise printing in connection with reprints of contemporary tracts, a bibliography of the Constitution during the period before it was put in operation.

[2] It is sufficient to name a few editions of it, which are serviceable for their elucidations: *The constitution of the United States, with notes by Robert Desty. 2d ed., with supplement and table of cases by Albert Brunner* (San Francisco, 1887), with annotations to decisions in all courts on controverted points. W. Hickey's *Constitution of the U. S. with an alphabetical analysis*, accepted for Congressional use, with the more important State Papers, etc. (originally Washington, 1846; new ed. by Alex. Cummings, Baltimore, 1878). Ben Perley Poore's *Federal and State Constitutions, colonial charters and other organic laws of the U. S., compiled under an order of the U. S. Senate* (Washington, 1877), in two volumes. Geo. W. Paschall's *Annotated Constitution of the U. S.* (2d ed., Washington, 1876). John T. Baker's *Federal Constitution* (N. Y., 1887), with footnotes of decisions. Lossing prints it in his *United States*, p. 612, with such commentary as the ordinary reader may need. There is a useful little book among the "Old South Manuals," *The Constitution of the U. S., with bibliographical and historical notes, prepared by Edwin D. Mead* (Boston, 1887). Cf. Stearn's *Concordance of the Constitution*. J. C. Hamilton, in his edition of *The Federalist*, gives a collation of texts.

[3] It sat, not in Carpenter's Hall, but in the State-House. *Penna. Mag. of Hist.*, April, 1887, p. 81.

[4] *Journals*, iv. 776.

[5] Madison's *Letters*, etc., iii. 53. Washington, March 19, 1796, deposited in the State Department the papers, then making three volumes: one of 153 pp., being the journal; a second of 28 pp., the proceedings in committee of the whole; the third, in 8 pp., a record of yeas and nays.

[6] The same volume contains the credentials of the members (also in App. to *Journals of Cont. Cong.*, iv. 29, and in Towle, p. 348), the Constitution itself, and the several state ratifications. Cf. *Journals, Acts, and Proceedings of the Convention*, etc. (Boston, 1819). Cf. note on sources in Elliot's *Debates* (1866), i. 121–123.

[7] Madison's *Letters*, iii. 226; iv. 9–12, 16, 17, 288, 310.

[8] *Letters*, iv. 139.

putting his own notes[1] in shape.[2] While thus engaged he had some correspondence[3] with Jonathan Elliot respecting the first edition of what has become, in its various issues, the great resource for the student of the formative age of the Constitution, Elliot's *Debates*.[4]

A list of the members of the Convention will be found in Sparks's *Washington*, xii., and in Curtis's *Hist. of the Const.*, i. 516.[5] Curtis[6] gives the characters of leading members: Washington, Hamilton, Madison, Franklin, Gouverneur Morris, Rufus King, C. C. Pinckney, James Wilson, and Edmund Randolph.[7]

The struggle for the adoption of the Constitution by the States forms the closing parts of both Curtis's and Bancroft's histories, and the later is helpful from his references to records in the newspapers not readily found elsewhere, and supplementing the records of the States given in Elliot's *Debates*.[8]

We may next note the principal sources which mark the progress towards ratification in the States, premising that it is thought unnecessary to cite the several histories of the States in all cases.

For Delaware, the first to confirm the Constitution, we have no particular record.

Pennsylvania next ratified, and a volume was published of the *Debates of the Convention of Pennsylvania, taken accurately in short hand by Thomas Lloyd* (Philadelphia, 1788), which embraced at length the speeches in favor of the Constitution by Thomas McKean and James Wilson.[9]

We have no distinct record of the proceedings in New Jersey. She had been the advocate of equal rights for the States, and the *Life of*

[1] On his opportunities for taking them, see Rives, ii. 310.

[2] *Letters*, iii. 228, 243; cf. iv. 18, 21, 73, for some notes on the Constitution written later.

[3] *Letters, etc.*, iii. 544, 552, 598.

[4] *Debates in the Conventions of the several States on the adoption of the Federal Constitution* (Washington, 1827–1830), four vols. A second edition, "with considerable additions" (Washington, 1836). These four vols. contained the journal of the Convention, Martin's letter, Yates's notes, the debates in several of the state conventions, excerpts from debates (1789–1836) in Congress on constitutional questions, beside other documents like the Virginia and Kentucky resolutions, the South Carolina ordinance of nullification, and Jackson's proclamation, etc. Subsequently a fifth volume was added, containing Madison's account of the debates. Editions of the complete five volumes are found with these imprints: Philadelphia, 1854, 1859, 1861, 1866, 1876 (Sabin, vi. p. 151). Madison's *Debates* and the leading histories of the Convention present the divers plans which were brought forward. Various such plans are appended to Towle's *Hist. and Analysis of the Constitution*. The original draft of Hamilton's plan is in the Astor Library, and, from a copy in George Read's handwriting, it is printed in Read's *George Read*, p. 453. Madison has a long letter on Pinckney's plan (*Letters*, iv. 378). M. D. Conway printed Randolph's draft in *Scribner's Monthly*, Sept., 1887.

[5] Fac-similes of the signatures of those who signed are given in Lossing's *War of 1812*, pp. 30, 31. References on the lives of the members are given in Barnwell's *Reading Notes on the Const.*, p. x.

[6] Vol. i. 380, 406, 420, 433, 440, 448, 454, 462, 480. Cf. characterizations in Rives's *Madison*, ii. 273–308.

[7] For condensed accounts of the personal aspects of the Convention, see McMaster's "Framers and Framing of the Constitution" in the *Century*, Sept., 1887, xxxiv. 746; Mrs. M. J. Lamb in *Mag. Amer. Hist.*, April, 1885, p. 313, with 18 portraits; Griswold's *Repub. Court*, p. 44; and on the Southern members, A. J. Bledsoe in the *Southern Rev.*, new ser., ii. 359. Johnston (*Connecticut*, p. 319) sets forth the influence of the Connecticut delegates. Madison's letters during its progress are in his *Letters*, etc., i. 330–340. (Cf. on his participancy, Webster's *Works*, i. 202, iv. 301; Gay's *Madison*, ch. 7–9; Rives's *Madison*, vol. ii.) We have Washington's diary and letters at the time (*Penna. Mag. Hist.*, xi. 296. Cf. Sparks, i. 435; ix. 538). We may follow Franklin in the Convention in Sparks's *Life of F.*, p. 520; in Parton's, ii. 564, and in Franklin's own words in Bigelow's (iii. ch. 11). The lives of Hamilton necessarily embody much of the history of the Convention (John C. Hamilton's; Morse's, i. 190; Lodge's, ch. 4; Riethmuller). Madison (*Letters*, iv. 214) wrote a letter to Austin, the biographer of Gerry, on Gerry's services; but Gerry, with others, refused to sign the Constitution (Sparks's *Washington*, ix. 270). On Gouverneur Morris's part, see Sparks's *Life of G. M.* (i. ch. 17) and Madison's *Letters*, iv. 168, 181, 201. On the attitude of George Mason in opposition, see Garland's *Randolph* (ch. 8) and Madison's *Letters*, iii. 605. The conspicuous assistance of James Wilson has long been recognized, and his speech in the Pennsylvania Convention in defence of the Constitution has been held to be one of the most luminous of the contemporary elucidations (James Wilson's *Works*, Philad., 1804, vol. iii.; Curtis's *Hist. of the Constitution*, i. 465; Frank Moore's *Amer. Eloquence*, vol. i.).

[8] Cf. also Hildreth, iii.; Schouler, i. 59; McMaster, i. 454; Von Holst, i. 54; Rives's *Madison*, ii. 511; J. C. Hamilton's *Hamilton* (1879 ed.); Morse's *Hamilton*, i. 238; and necessarily the lives of leading actors in the struggle. The acts of ratification by the several States are given in *Niles's Register*, xliii., supplement. Cf. Cocke's *Const. Hist. U. S.*, i. 88.

[9] Cf. Elliot, vol. ii. The letters of John Dickinson as "Fabius" are included in his *Polit. Writings* (Wilmington, 1801, vol. ii.). A minority of 16 published their *Reasons of Dissent* (*Amer. Museum*, ii. 536), and elicited strictures under the title of *Remarks on the Address*, etc. (Philad., 1787).

George Read (ch. 6) shows how anxious she and the other smaller States had been.[1]

Georgia followed, but we are destitute of her detailed record.

Connecticut came next, and her proceedings are in Elliot, ii., in a fragmentary state.[2]

Of the action of Massachusetts we have abundant record, which is elaborately summarized in a centennial address by Abner C. Goodell, Jr., which was published in the *Boston Weekly Post*, Feb. 10, 1888. The action of the convention was daily noted by Major Benjamin Russell, and published in his *Massachusetts Centinel*, day by day. He had no knowledge of stenography;[3] but his minutes were afterwards revised, in some cases by the speakers,[4] and published as the *Debates, Resolutions, and other Proceedings of the Convention of the Commonwealth of Massachusetts, convened at Boston on the 9th of January, 1788, and continued until the 7th of February following, for the purpose of assenting to and ratifying the Constitution recommended by the Grand Federal Convention, together with the Yeas and Nays on the decision of the Grand Question; to which the Federal Constitution is prefixed* (Boston, 1788). This may be supplemented by the notes made by Dr. Jeremy Belknap while the convention was sitting in his meeting-house (*Mass. Hist. Soc. Proc.*, iii. 296–304), while Belknap's letters at the time to Hazard are given in the *Belknap Papers*, ii. 6–18. The record, as it appeared in the *Mass. Gazette*, Feb. 8, 1788, is reprinted in the *N. E. Hist. and Geneal. Reg.*, i. 232. There was a new edition of the *Debates* in 1808, and the State finally, in 1856, gave an official sanction to Russell's edition of the *Debates*, etc., edited by Bradford K. Peirce and Chas. Hale.[5]

There is in Parsons's *Life of Theophilus Parsons* (p. 59, etc.) an account of the way in which Samuel Adams and John Hancock were induced to support the Constitution. The conciliatory propositions made by Hancock were written by Parsons.[6] On Parsons's influence in the Convention see Isaac Parker's *Sketch of the character of the late Chief-Justice Parsons* (Boston, 1813), p. 22.

Maryland ratified the Constitution the seventh in order. Cf. Elliot, ii., and Henry P. Goddard's Life of Luther Martin in no. 24 *Maryland Hist. Soc. publications*.

South Carolina followed next. Curtis (ii. 511) calls the debates (Elliot, iv.) one of the most able of all the discussions.[7]

The ninth State, New Hampshire, made the necessary number of States complete, and when the news of her accession reached Philadelphia it was the occasion of a great pageant. Francis Hopkinson wrote the official account.[8]

For the journal of the New Hampshire convention, see *Hist. Mag.*, xiii. 257; *N. H. Prov. and State Papers*, x.; Elliot's *Debates*, ii.

The struggle in Virginia was a trying one. Washington's letters (Sparks, ix.) are full of anxiety pending the result, and his correspondents kept him informed (Sparks, *Corresp. of the Rev.*, vol. iv.). The opposing attitude of R. H. Lee is shown in his *Observations leading to a fair examination of the system of government proposed by the late Convention: letters from the Federal Farmer* (1787). Patrick Henry bore the burden of conducting the opposition in the convention.[9]

[1] New Jersey celebrated the centennial of her action, and the address of Prof. Austin Scott is printed in the *New Brunswick Daily Home News*, Dec. 17, 1887.

[2] Cf. Johnston's *Connecticut*, ch. 17, and Beardsley's *William Samuel Johnson*, p. 127.

[3] Buckingham's *Reminiscences*, ii. 49.

[4] Russell says in a note to his collected reports that he did not have an eligible place to take his notes, and that he had not been able to obtain revisions from some of the speakers.

[5] This edition includes also the official journal and other documents preserved in the state archives, together with notes kept by Theophilus Parsons, which are now in the Boston Athenæum; the dissenting letter of Gerry, dated Oct. 18, 1787, and current discussions from the *Chronicle* and *Centinel*. Elliot's *Debates* (vol. ii.) also reprints the Russell collection.

[6] Wells's *Adams*, iii. 259; Amory's *James Sullivan*, i. 223; Sullivan's *Familiar Letters*, no. iv.; Bancroft, vi. 395, praises Hancock's action.

Other personal records are given in Austin's *Gerry*, with Gerry's letter of dissent, p. 42; Lodge's *Cabot*, 24; and Parsons (p. 80) cites the recollections of James Savage. Cf. Barry's *Massachusetts*, iii. 273; Rives's *Madison*, ii. 521; A. W. Clason in *Mag. Amer. Hist.*, Dec., 1885 (vol. xiv.).

[7] Cf. the *Debates on the Constitution* (Charleston, 1788), and Elliot, iv. Charles Pinckney published *Observations on the plan of government submitted to the Federal Convention* (N. Y., 1787). Cf. A. W. Clason in *Mag. Amer. Hist.*, Feb., 1886.

[8] Cf. Hopkinson's *Essays*, ii. 349; *Amer. Museum*, iv. 57; Hazard's *Register of Pa.*, i. 417; Watson's *Annals*, ii. 341; Scharf and Westcott's *Philad.*, i. 447.

[9] Wirt's *P. Henry;* Tyler's *P. Henry*, ch. 18, 19. Henry's great speech, June 4, is given in Johnston's *Amer. Orations*, vol. i.

W. W. Henry in *Amer. Hist. Assoc. Papers*, ii. 29, enlarges on P. Henry's objection to the absence of a guaranty for religious liberty, and Dr. Philip Schaff in his *Church and State in the U. S.* (N. Y., 1888,—Amer. Hist. Assoc. Papers, ii.) examines the relations of the Constitution to religious liberty.

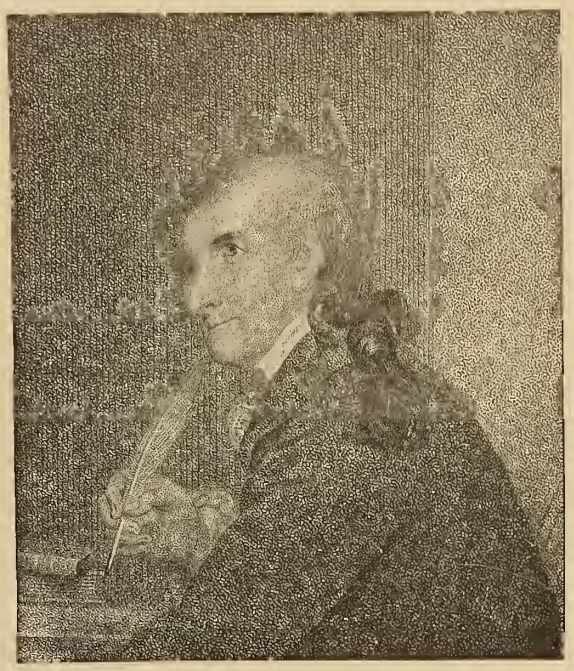
Madison's *Letters* (i. 341) record his anxiety.[1]

The *Debates and other Proceedings of the Convention of Va., to which is prefixed the Federal Constitution* (Petersburg, 1788), reached a second edition as *Debates and other proceedings of the convention of Virginia convened at Richmond, 2d June, 1788, for the purpose of deliberating on the constitution recommended by the Grand Federal Convention, taken in shorthand by David Robertson* (Richmond, 1805). The *Journal* was printed at Richmond in 1827.[2]

The last State to accede previous to the organization of the government was New York. John Jay wrote *An address to the People*, published anonymously (N. Y., 1787. It is in Elliot, vol. i.). Hamilton's great speech, June 24, 1788, urging the adoption, is in his *Works*, and in Johnston's *Amer. Orations*, vol. i. Bancroft (vi. 458) summarizes Clinton's speeches in opposition from the Clinton Papers in the State Library at Albany.[3]

Subsequent to the institution of the government, North Carolina acceded to the Union, and the debates of her convention are in Elliot, iv.[4]

The laggard Rhode Island was frightened at the risks she ran in remaining an alien State, and came in by accepting the Constitution, May 29, 1790. Cf. Gov. Collins's letters on the grounds of her opposition in Sparks's *Washington*, x. App. 6; and a note of her farcical exhibitions in Staples's *Providence*, 329.



FRANCIS HOPKINSON.*

The papers of *The Federalist*, then and now, are the best of expositions. The last word on its bibliography is in P. L. Ford's *Bibliotheca Hamiltoniana*, pp. 13–35. Lodge, in the ninth volume of his *Works of Hamilton*, gives a bibliography, which adds two editions to those enumerated by Dawson in his edition of 1863, where will be found more bibliographical detail than Lodge gives. The first collected edition appeared in two successive volumes in 1788, with a text revived somewhat from its form in the serial issue. There were changes in the edition of 1802, but Dawson doubts their having been authorized by Hamilton. Madison revised his own papers in the edition of 1818. The best account of the text is in Lodge's essay in his *Works of Hamilton*, vol. ix. Dawson, in editing the book in 1863, went back to the serial text as the only authoritative one, assuming that neither Hamilton nor any one else was warranted in revising the text of a publication become so like a public document, but this view would obviously meet with question.[5] The last eight numbers did not appear serially, and Dawson had to take their text from the edition of 1787. He also provided an historical introduction, which

1 Cf. Rives's *Madison*, ii. 560. His reply to Mason's objections, Sept. 30, 1787, is in Sparks's *Washington*, ix. 542, with a letter to Washington (p. 547).

Decius's letters on the opposition to the Constitution in Virginia, by J. Nicholas, reached a third ed. (Richmond, 1818).

2 Cf. Elliot, iii.; A. W. Clason in *Mag. Amer. Hist.*, June, 1886, p. 566; Magruder's *Marshall*, ch. 5; L. G. Tyler's *Letters and Times of the Tylers*.

3 Cf. Elliot, ii.; Rives's *Madison*, ii. 625; Lossing's *Schuyler*, ii. 442; Lodge's *Hamilton*, 71; J. A. Stevens in the *Mag. Amer. Hist.*, ii. 385; and A. W. Clason in *Ibid.*, Aug., 1886, p. 148.

4 Cf. McRae's *Iredell*, ii. ch. 21, 22; and A. W. Clason in *Mag. Amer. Hist.*, April, 1886.

5 Cf. Professor H. W. Torrey in *No. Amer. Rev.*, April, 1864.

* After Pine's picture, as engraved by J. Heath, in Delaplaine's *Repository*, 1818. Cf. *Philad. Loan Exhib. Catal.* 1887, nos. 193, 194.

elicited rebuke in some quarters for being made the vehicle of enforcing the principles of state sovereignty at a time (1863) when a war was waging to destroy them.[1] The latest edition, in some sense an antidote to Dawson's, was edited by John C. Hamilton (Philad., 1864), with an elaborate introduction.

Madison (Rives, ii. 485) tells us that the essays were hastily written, and without more concert than came of similarity of views; and that the illness of Jay prevented his taking the leading part, which had apparently been intended for him; and John Adams (*Works*, x. 115) tells us that Jay's name was the one of most influence in the undertaking. Madison's distinction between a republic and a democracy did not commend itself to Adams, who thought a democracy is as really a republic as an oak is a tree (*Works*, x. 378). Story speaks of the papers as simply aimed to meet prevalent objections, without an attempt "to pursue any very exact order in the reasonings." The burden fell on Hamilton and Madison, since the few papers by William Duer, intended for the series, were not included in the collection till embraced by J. C. Hamilton in his edition in 1864. Over the respective shares of these two leading writers there has been much dispute, the biographers of each not being willing to allow the claims presented for the other. Rives[2] and the edition of 1818, which gives what is called Madison's own assignments of authorship, must thus be contrasted with what is called Hamilton's assignment in the edition of 1810, and with the discussions of Hamilton's several biographers. J. C. Hamilton in his edition of *The Federalist*, and Lodge in his *Works of Hamilton* (vol. ix.), have extended essays on the authorship; the latter's is based on a communication which he made to the American Antiq. Society (*Proceedings*, April, 1885). In this paper Lodge gives a full account of the various lists assigning authorship, emanating from Hamilton, Washington, Madison, and Jefferson; and his conclusion is that as regards 12 numbers, the testimony is too conflicting to determine beyond question their authorship. His conclusions are safer than those of J. C. Hamilton.[3]

The treatises on the scope and limitations of the Constitution and on the practical operations of government under it are very numerous; but a few, however, need to be mentioned, chiefly with the view to mark stages in historical development, and to indicate varieties of treatment. It may be well in the first place to revert to John Adams's *Defence of the Constitutions* (1787–1788), in which he argued for the checks and balances incident to the old world system of "the one, the few, and the many," as three estates of political society (*Works*, vi.). Madison was fearful that the views might command a troublesome acceptance (Rives's *Madison*, ii. 504); but the protests of Samuel Adams and Roger Sherman were effectual symptoms of a general dissent.[4]

Among the earliest indicative comments on the Constitution was James Sullivan's *Observations on the government of the U. S.* (Boston). William Rawle, a distinguished lawyer in Philadelphia, published a *View of the Constitution* (1825; 2d ed., 1829). Some of the earliest of the more popular treatises were James Bayard's *Exposition of the Constitution* (Philad., 1833), and P. S. Duponceau's *Brief View of the Constitution* (Philad., 1834). Henry Baldwin's *General View of the Origin and Nature of the Constitution and Government of the U. S.* (Philad., 1837) was the work of one of the judges of the Supreme Court itself. C. B. Goodrich's *Science of Government as Exhibited in the U. S.* (1853) was such a semi-popular elucidation as befitted a course in the Lowell Institute. Henry Flanders's *Exposition of the Constitution* (1860, 1874). S. G. Fisher's *Trial of the Constitution* (Philad., 1862) and William Whiting's *War powers under the Constitution* (many eds.) mark the epoch of the Civil War. O. A. Brownson's *American Republic, its Constitution, tendency and destiny* (N. Y., 1866) is the work of a vigorous writer, who rejects the theory of state sovereignty in its broadest application.[5] Cf. sundry articles in Lalor's *Cyclopædia*. An English view of the secession principle is in James Spence's *American Union* (London, 1862, 3d ed.), with a good many unhappy prophesies.

[1] Dawson's text without comment was reissued in 1881 for text-book use.

[2] ii. 486, etc.; also Madison's *Letters*, i. p. l.; iii. 58, 59, 60, 99, 110; iv. 177.

[3] Cf. Bancroft, final revision, vi. 452, who thinks Madison's statements determinative; Schouler, i. 57, who holds similar views.

[4] Cf. Adams's correspondence with them in *Works*, vi. 411; and Camillus's *Political Reformer*, Philad., 1797. Cf. the *Adams and Mercy Warren Correspondence*. Adams's *Defence* appeared in Paris as *Apologie des Constitutions des États-Unis*, but its Anglican tendency made it unpopular in France; while a sort of sweeping success attended a treatise attributed to William Livingston, called in the French version, *Examen du gouvernement d'Angleterre comparé aux Constitutions des États-Unis, où l'on réfute quelques assertions contenues dans l'ouvrage de M. Adams, 'Apologie', etc., et dans celui de M. Delolme, par un Cultivateur de New Jersey.* It was translated by Fabre, and annotated by Condorcet, Dupont de Nemours and Gallois (Rosenthal's *America and France*, p. 159, with references).

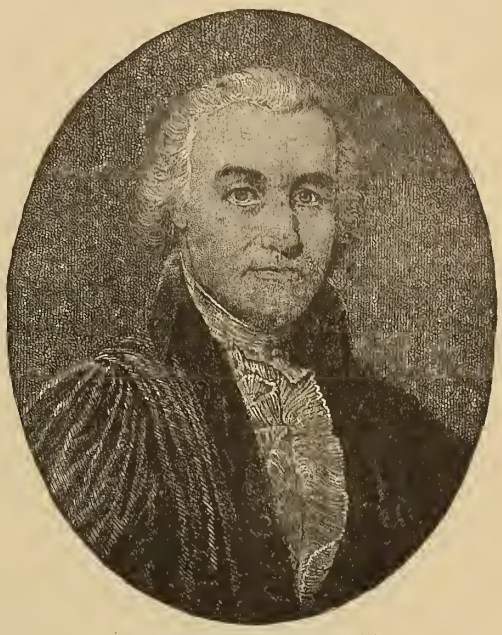
[5] The work is included in his *Works* (vol. xviii.) and in it he has compacted much of the political theory which will be found in various papers scattered through the same *Works* (vols. x., xv., xvii., xviii.).

The interpretation of the Constitution through the courts can be followed in the *U. S. Supreme Court Reports.*[1]

Judge Henry B. Brown, of Detroit, has published in the *Amer. Law Review* (1887) and separately *The Dissenting opinions of Mr. Justice Daniel*, who held a seat on the U. S. Supreme Bench, 1841 – 1860, a period corresponding nearly to Howard's Reports. He dissented in 111 cases, and represented the extreme Southern view on the questions of slavery, internal improvement, the relations of the Federal government to the States, etc.; and Judge Brown speaks of these opinions, in analyzing them, as exhibiting "the views of a political school, of which Judge Daniel was perhaps the last survivor."

Von Holst says: "Since both the inferior Federal courts and the State courts have to pass upon the constitutionality of Federal and State laws, and all the disputed questions of constitutional law cannot possibly be brought before the Supreme Court for adjudication, the decisions of these other courts often carry great weight." [2]

More or less of illustrative matter will be found in the lives of the Supreme Court judges. The memoirs in Henry Flanders's *Lives and Times of the Chief Justices* (Philad., 1858) cover the accounts of Jay, Rutledge, Cushing, Ellsworth, and Marshall. The narratives are briefer in George Van Santvoord's *Sketches of the lives and judicial Services of the Chief Justices* (N. Y., 1856; 2d ed., edited by W. M. Scott, Albany, 1882). There are separate lives of Jay and Marshall mentioned elsewhere. Of the associate justices, there are lives of Iredell by McRee, and of Joseph Story by his son, W. W. Story (Boston, 1851), in two vols., in both of which there are constitutional questions discussed. Marshall's *Writings on the Federal Constitution*, being his decisions, was published at Boston, 1839, edited by J. H. Perkins. Story's



OLIVER ELLSWORTH.*

[1] An account of these is given in B. V. and A. Abbott's *National Digest* (1789–1880), and a bibliographical summary is in Chas. C. Soule's *Lawyers' Reference Manual* (Boston, 1883). The *Reports*, by A. J. Dallas (4 vols.) come to 1800; W. Cranch (9 vols.) to 1815; H. Wheaton (13 vols.) to 1827; R. Peters (16 vols.) to 1842; and B. C. Howard (24 vols.) to 1860. The later ones are beyond the limits of the present history. The *Cases before Story*, by Gallison, make 4 vols In the nature of abridgments are R. Peters's *Condensed Reports* (6 vols.), 1791–1827; B. R. Curtis's *Decisions* (22 vols.), 1790–1854. Von Holst (*Const. Law*, p. 36) refers to an edition begun in 1882 (Rochester, N. Y.) under the editing of Stephen R. Williams, "which is more complete, more convenient, and in many respects more valuable" than Curtis's.

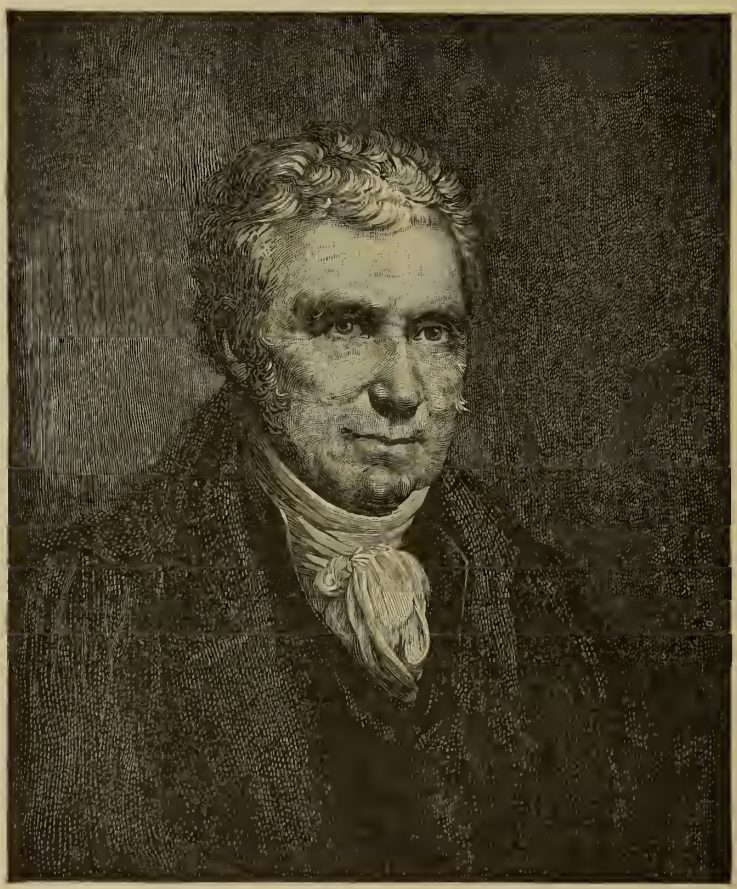
In the nature of helps to study are the *Opinions of the attorneys-general;* H. Wheaton's *Digest of Decisions*, 1789–1820; R. S. Coxe's *Digests of the Decisions*, 1789–1827; B. R. Curtis's *Digest of Decisions*, 1790–1854; and the *Digests* of B. V. and A. Abbott; Rapalye's *Federal Reference Digest*, 1789–1800; Brightly's *Digest of Federal Decisions*, 1789–1873; A. C. Freeman's *Digest of American Decisions* (San Francisco, 1882); Desty's *Federal Citations*, 1789–1878; Myer's *Index, U. S. Supreme Court*, 1789–1878; Lauck and Clarke's *Table of Cases*, 1789–1880; and O. F. Bump's *Notes of Constitutional decisions* (N. Y., 1878).

[2] Cf. Soule's *Lawyers' Reference Manual.*

Von Holst (*Const. Law*, p. 36), referring to the *Statutes at Large*, says: "The student cannot dispense with them, although the *Revised Statutes*, 1875; 2d ed., 1878; *Supplement*, 1874–1881, are more convenient by their topical arrangement and their references to decisions of the Supreme Court; but they contain only the laws at present in force." Cf. Brightly's *Digest of the Laws of the U. S.* (1789–1857).

* From the *National Portrait Gallery*, 1835, vol. iv., after a painting by J. Herring. Trumbull's picture as engraved by Edwin, is in the *Analectic Mag.*, May, 1814. Cf. J. C. Hamilton's *Hamilton*, 1879 ed., vii. 306, and *The Century*, July, 1887.

Commentaries on the Constitution (Boston, 1833), in three volumes, is the main resource for the upholders of the view that the combined States are a unified government, and not a league. The fourth edition, edited by Judge Thomas M. Cooley (Boston, 1873), is now the standard edition.[1]



CHIEF JUSTICE MARSHALL.*

[1] Story's view of the Constitution, which is popularly put in his *Familiar Exposition of the Constitution* (N. Y., 1859), is the ground taken by Hamilton, Marshall, and Webster, and in the writings of these expounders, as in Story's, it has the strongest presentation. Cf. "A Strong Government," by G. T. Curtis in *Harper's Monthly*, June, 1880, and Francis Lieber's *What is our Constitution: league, pact, or government?* Von Holst enforces this view in his *Constitutional Law*, p. 43. J. C. Hurd's *Theory of our National Existence* (Boston, 1881) is a full, legal inquiry into the nature of our government.

The opposing view of a league is best illustrated in the *Works* of Jefferson, and, among the later writers, by Calhoun (*Works*, vol. i.); A. H. Stephens's *Constitutional view of the late war between the States* (Philad., 1868), and Jefferson Davis's *Rise and Fall of the Confederate Government* (N. Y., 1881), vol. i. part 2. Abel P. Upshur, in his *Brief enquiry into the nature and character of our Federal Government* (Petersburg, 1840; Philad., 1863), is a direct examination of Story's *Commentaries*. Van Buren (*Political Parties*, ch. 4) compares the respective views as held by Madison and Hamilton. Mr. Geo. H. Yeaman, in his *Study of Government* (Boston, 1871), p. 36, says of Madison that "he failed to express and to adhere to any opinion sufficiently positive and well defined to make it just to class him strictly on either side of the question; and the fact that he is often freely and confidently quoted by both schools of politics may very possibly only

* After an original likeness by Rembrandt Peale, in the rooms of the Long Island Historical Society, and engraved by the society's permission. Inman's picture is engraved by A. B. Durand. Cf. *Nat. Port. Gallery*, 1834, and *Mag. Amer. Hist.*, July, 1884. It was painted in 1831, when Marshall was seventy-six years old; and is owned by the Law Association of Philadelphia. There is an engraving of a profile taken about the time he was made chief-justice, when he was about forty-five.

The Commentaries on American Law, by Judge James Kent, is equally famous, and, in its latest forms, is edited by Oliver Wendell Holmes, Jr. (Boston, 1873), and by C. M. Barnes (13th ed.). Of the later commentators, Judge Cooley is probably one of the weightiest, in his *Treatise on the Constitutional Limitations which rest upon the legislative power of the States of the American Union* (1868; 2d ed., Boston, 1871), and his *General Principles of Constitutional Law in the U. S.* (Boston, 1880). A well-known excellent book is John Norton Pomeroy's *Introduction to the Constitutional Law of the U. S.* (N. Y., 1868), — preferably to be consulted in the ninth or later editions, revised and enlarged by Edmund H. Bennett (Boston).[1] Cf. Francis Wharton's *Commentaries on Law* (Philad., 1884), ch. 6.

There are two leading histories of the Constitution, including its final adoption by the States, — those of George Ticknor Curtis and George Bancroft, written with a long interval between them.[2]

All the general histories of the United States are, in part at least, constitutional ones; but

illustrate the ingenuity of his many admirers rather than his own inconsistency." Cf., on Madison and the Constitution, *Quarterly Rev.*, cxlv. 257, and the *Exposition of the Constitution contained in the Report called Madison's Report* (Richmond, 1819).

The "league" theory is elaborately wrought out by Bernard J. Sage of New Orleans, in the *Republic of Republics, by P. C. Centz* (Boston, 4th ed., 1881), in a way avoiding the later conflicts of opinion, using "no facts or authorities originating after the federal system was set in motion," and he cites some views in his App. C to show "that federation was always intended." The theory of a "nation," as strengthened by the trials of the Civil War, is put forth with elaboration in Timothy Farrar's *Manual of the Constitution* (Boston, 1867), and this and the book by Sage may be read as exemplifications of conflicting views.

The speeches of Webster and Hayne in the famous debate of 1830 perhaps express respectively the antagonistic sentiments in as forcible a way as Congress has heard them. Sage (*Republic of Republics*, App. E) contends that Webster's real constitutional views were his earlier ones of the Boston Report of 1819, where he argued for the "compact" theory, at the time of the Missouri controversy.

[1] Of less importance, but sometimes varying the application usefully, are, among others, St. George Tucker's notes to the Constitution and laws of the U. S. in his ed. of *Blackstone's Commentaries* (Philad., 1803), and his *Lectures on Constitutional Law;* Thomas Sergeant's *Constitutional Law* (Philad., 1822); D. Raymond's *Elements of Constitutional Law* (Balt., 1840; Cinn., 1845, etc.); W. A. Duer's *Constitutional Jurisprudence* (N. Y., in *Harper's Family Library*, 1843), intended for popular use; Theodore Sedgwick's (d. 1859) *Treatise on the rules which govern the interpretation of Statutory and Constitutional Law* (2d ed., enlarged and annotated by J. N. Pomeroy, N. Y., 1874). W. O. Bateman's *Polit. and Constitutional Law of the U. S.* (St. Louis, 1876) is a book enlarging on the tendency to make Congress instead of the people sovereign, which is also in a way the burden of Woodrow Wilson's *Congressional Government* (4th ed., Boston, 1887), in which it is maintained that the government is in reality one by the chairmen of standing committees of Congress, — which view is considered an exaggeration by Von Holst (*Constitutional Law*, 191), who, however, recognizes much truth in it. Elisha Mulford's *Nation* is a strong exemplification of the sovereignty of the people; Dr. Schaff says of it that the book "grew out of the enthusiasm for the nation enkindled by the civil war. It is a profound study of speculative politics, with the main ideas borrowed from Bluntschli and Hegel" (*Church and State in the U. S.*, p. 53). It is to emphasize this view that James Monroe wrote his *The People the Sovereigns, being a Comparison of the Government of the United States with those of the republics which have existed before. Ed. by S. L. Gouverneur* (Philad., 1867).

[2] Curtis's *History of the origin, formation, and adoption of the constitution of the United States; with notices of its principal framers* (New York and London, 1854–58), is in two vols., and later dates.

Bancroft's *Hist. of the formation of the Constitution of the U. S.* (N. Y., 1882), in two vols., passed to a third ed. (1883) before it was made vol. vi., with final revisions, of his *Hist. of the U. S.* It is also issued separately in a "Student's Edition" in one volume. Perhaps the most extensive of the other accounts is that contained in the second volume of Rives's *Madison*. J. C. Hamilton gives an historical sketch in his edition of *The Federalist;* but it needs to be taken with a full recognition of its author's nepotal tendencies. For treatment in the general histories, see Hildreth, iii. 482; Gay, iv. 100; Schouler, i. ch. 1; McMaster, i. 438. Cf. Frothingham's *Rise of the Republic*, 590; Austin's *Gerry*, ii. ch. 1; Van Buren's *Polit. Parties*, p. 45; Greeley's *Amer. Conflict*, ch. 5; Jameson's *Constitutional Convention* (1867, 1869, 1873, 1877); W. C. Fowler's *Sectional Controversy* (ch. 2); Joseph Alden's *Science of Government*, p. 57. Books which bring incidentally more or less the history of the Constitution within their scope are too numerous to attempt a longer catalogue. A few of the more direct treatments in magazines are those of Sparks in the *No. Amer. Review*, xxv. 249; J. Randolph Tucker's history of the "Federal Convention of 1787 and its work" in the *New Englander*, Aug., 1887, vol. xlvii. 97, and separately (New Haven, 1887); and John Fiske in the *Atlantic Monthly*, Nov., 1887 (lix. p. 817).

Two companionable books to the student in the study of the Constitution are John A. Jameson's *Constitutional Conventions* (N. Y., 1867; 4th ed., revised and enlarged, Chicago, 1887), and Nath. C. Towle's *Hist. and Analysis of the Constitution* (3d ed., Boston, 1871).

the only considerable book which has that distinctive designation is that by Hermann Von Holst, and it takes up the story of the progress and modifications of the Constitution under the stress of party politics and the changes of national requirements. The original German[1] is, unfortunately, not likely to be resorted to by most American students, and the English translation[2] not infrequently does injustice to the author's meaning. The book, on the whole, is not, through a lack of even progression, a perfectly well-made one, though the author's ability and general accuracy become patent to the reader. There is a want, at times, of something like equipoise, and a sharp characterization is occasionally pushed to the verge of flippancy, and becomes offensive in proportion to its vividness. When a political critic's object is to be searching in threading the toils of opinion and action, it is easy to slide into asperity, and thence into pessimism; and Von Holst is not exempt from the failing. The American habit of pardoning what is bad if it only has worldly success, and a tendency to meet exigencies with a certain persiflage, does not indicate quite the lack of moral integrity, to those who understand it, that the foreigner, like Von Holst, may see in it. It is not, however, a misfortune for Americans, at least, that the habit and temper strike a stranger as a moral defect, and that he tells us so.[3]

There is probably but one other book written by a foreigner on the American Constitution and its workings to share the chief distinction with Von Holst, and that is the *Démocratie en Amérique par Alexis de Tocqueville*, originally published at Paris in 1835.[4]

[1] The first volume was called *Verfassung und Democratie der Vereinigten Staaten von Amerika* (Düsseldorf, 1873). The title was changed in the second volume to *Verfassungs-geschichte der Vereinigten Staaten seit der Administration Jacksons*. In the preface to the German edition Von Holst announces his purpose to treat first the political history of the Constitution, and this he has done down to 1856 in the five vols. already published. The legal history he has not yet compassed in an extensive way, but he has pursued it in the treatise which has been translated by A. B. Mason as *The Constitutional Law of the U. S.* (Chicago, 1887). Von Holst represents that this book is compressed too much to satisfy him, since he had to meet the requirements of a series on Public Law, to which it belongs, and which was intended for European readers. This, he says, has forced him to a method not adapted to American readers. His opening chapter is a compact summary of the history of the impulses towards, and the formation of the Constitution, which may be compared with the second chapter of his *History* on the worship of the Constitution and its real character. To carry out his scheme as originally advanced, he needs to add a treatise on the present social and political condition of the country.

[2] *The constitutional and political history of the United States. Translated from the German by John J. Lalor, Alfred B. Mason, and Paul Shorey* (Chicago, 1876, 1879, 1881). The volumes, so far as they come within the period of the present History, are: i., State sovereignty and slavery, 1750–1833; ii., Jackson's administration, — the Annexation of Texas, 1828–1846; iii. Annexation of Texas, — Compromise of 1850, 1846–1850. The translators say in their note to vol. ii., that Von Holst thought that their English title raised a claim for the first volume which the book did not entirely support.

[3] Cf. the better American qualified confession of the force of Von Holst's criticism in the views of Henry Adams and Henry Cabot Lodge in the *No. Amer. Review*, October, 1876; and the *International Review*, vii. 436.

Such an extreme Southern-side writer as Percy Greg (*Hist. U. S.*, i. 431) calls Von Holst's book a "bitter contemporary party pamphlet," while he acknowledges it to be "an invaluable repertory of information, and a storehouse of serviceable if not impartial references."

The lesser historical treatments are in Wm. Archer Cocke's *Constitutional Hist. of the U. S.* (only vol. i. to the end of Madison's term, published, Philad., 1858); C. Chauncy Burr's *Hist. of the Union and of the Constitution* (N. Y., 3d ed., 1863); T. D. Woolsey on the "Experiment of the Union" in the *First Century of the Republic* (N. Y., 1876); Alexander Johnston's "First Century of the Constitution" in the *New Princeton Review*, Sept., 1887; and Henry Reed's "Constitution of 1787 and 1866 — formerly and now," in the *International Review*, ii.; and Horace Davis's *American constitutions: the relations of the three departments as adjusted by a century* (San Francisco, 1884).

The address of John Quincy Adams in 1839 before the N. Y. Hist. Society on the "Jubilee of the Constitution" marks the half-century stage of its development, though he avoids referring much to the constitutional conflicts of his time.

A considerable part of Simon Sterne's *Constitutional Hist. and polit. development of the U. S.* (N. Y., 1882) is given to a condensed sketch of the influence of judicial decisions and growth of opinion on the acting Constitution. Cf. L. H. Porter's *Outlines of the Constitutional Hist. of the U. S.* (N. Y., 1883).

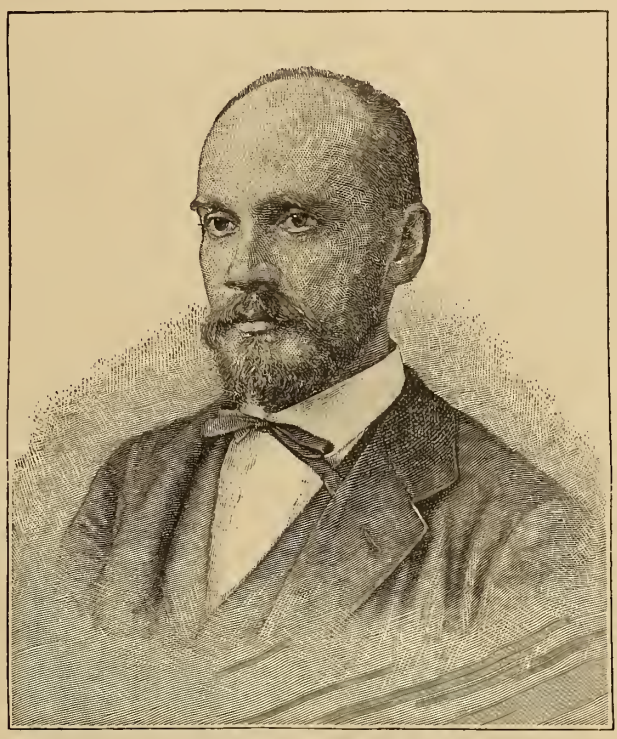
On the organization of the departmental offices see Towle (p. 377); Webster Elmes's *Comprehensive View of the powers, functions, and duties of the heads of departments, bureaus, and divisions at Washington, as prescribed by law* (Washington, 1879), and Geo. L. Lamphere's *United States Government, its organization and practical workings* (Philad., 1880).

[4] The English translation by Henry Reeve was printed in London, 1835; but it is found in its best form in

We can trace most of the differences of view in Von Holst and Tocqueville to the fact that the one wrote after and the other before the Civil War and its lessons, and the estimation in which the French writer is to-day held is doubtless not so pronounced as before the war. Von Holst (i. preface and p. 61) thinks that Tocqueville's knowledge of American affairs was not sufficient to screen his lack of a historic sense.[1]

English writers have almost invariably compared the American Constitution with that accretion of fundamental law which makes up what is called the British Constitution.[2]

The whole course of English constitutional history is followed by Stubbs to 1485; by Hallam to 1760; by May to 1860, and by Amos in his *Fifty years of the English Constitution*, 1850–1880. If we added to this series of well-known books a few others, like Sharswood's edition of Blackstone's *Commentaries;* De Lolme's *Constitution of England;* Bagehot's *English Constitution;* J. S. Mill's *Representative Government;* Sir Henry Maine's *Popular Government* (London, 1885); Edward A. Freeman's unfortunately named *History of Federal Government from the foundation of the Achaian League to the dis-*



HERMANN VON HOLST.*

the *Democracy in America, edited with notes, the translation revised and in great part rewritten, and the additions made to the recent Paris editions now first translated, by Francis Bowen* (Cambridge, 1862).

The first volume contains the study of the Constitution, and the second its influence upon manners and society. The first volume of this edition was issued separately as *American Institutions* (Cambridge, 1870). The original Reeve translation of this same volume was published as *Democracy in America*, with a preface by J. C. Spencer (N. Y., 1839), and the second volume as *The social influence of Democracy*, translated by Spencer (N. Y., 1840).

[1] The most noteworthy of the other French commentaries are probably: F. de Barbé-Marbois's "Discours sur la Constitution et le Gouvernement des États-Unis" in his *Louisiane* (1829); Boutmy's *Constitutions Etrangères;* the third volume (1783–1789) of Edouard Laboulaye's *Histoire des États-Unis* (2me ed. Paris, 1867); and le Marquis de Talleyrand-Périgord's *Etude sur la republique des États-Unis* (N. Y., 1876).

[2] There is a gathering of some of the more essential of the documentary illustrations in Francis Bowen's *Documents of the Constitution of England and America* (Cambridge, 1854).

* After a photograph furnished by his friend and pupil, Professor Albert Bushnell Hart of Harvard College.

ruption of the United States (London, 1861); and the paper on presidential government in his *Historical Essays*, — we shall probably embrace most of the essential phases of English thought, as applied to the study of English constitutional progress, with some reference to the American experiment. This last is treated specially and with decided bias towards the British form in P. F. Aiken's *Comparative View of the Constitutions of Great Britain and the United States* (London, 1842); and H. S. Tremenheere's *Constitution of the United States compared with our own* (London, 1854), in which use has not been avoided of American disparagements of the American methods. These works appeared before the Civil War, and the results of that conflict have not been lost upon the writers of two later books, Johnson's *Free Government in England and America*, and Louis J. Jenning's *Eighty years of republican government* (reprinted, N. Y., 1868). Dicey in his *Lectures introductory to the study of the law of the Constitution* (London, 1885; 2d ed., 1886) makes constant comparison with the American Constitution, and his book is an excellent one. One of the most generous criticism is to be found in W. E. Gladstone's "Kin beyond Sea" in his *Gleanings of Past Years*, vol. i., originally in the *North Amer. Review*, Sept., 1878. Cf. Crane and Moses's *Politics: an introduction to the study of Comparative Constitutional Law* (N. Y. 1884).

Professor Diman in the *New Englander*, May, 1878, and Woodrow Wilson in his *Congressional Government*, have not failed to show that the difference of form of the written and unwritten constitutions is reduced to a small divergence through the elasticity and adaptability secured to the American document from its elementary character.[1]

Hildreth (iv. 112) gives a good summary of the movements leading to the adoption of the first ten amendments (declared in force December 15, 1791).[2] The eleventh amendment relates to the status of a State in suits; and the twelfth rectified the method of choosing the President.[3]

[1] Interpretation might carry it even to the side of monarchy, as W. B. Lawrence points out in the *No. Amer. Rev.*, cxxxi. 385 (1880), writing in the light of the experience of the Civil War and its influences.

[2] Cf. *Journal of the Convention*, 391–481, for an embodiment of the ideas.

[3] Cf. Randall's *Jefferson*, ii. 579, and the party literature of the time.

POSTSCRIPT. — Mr. F. D. Stone, of the Pennsylvania Historical Society, draws my attention to the following additional records: —

Proceedings and Debates of the Convention of North Carolina, convened at Hillsborough on Monday, the 21st day of July, 1788, for the purpose of deliberating and determining on the Constitution recommended by the General Convention at Philadelphia, the 17th day of September, 1787 (Edenton, 1789).

Minutes of the Convention of the State of New Jersey, holden at Trenton on the 11th day of December, 1787 (Trenton, 1788 — reprinted, 1888). It contains the matter given by Elliot.

Minutes of the Pennsylvania Convention (1787 — 28 pp. folio).

Mr. J. B. McMaster is now editing for the Pennsylvania Historical Society a volume of the debates and contemporary essays, to be called *Pennsylvania and the Federal Constitution, 1787–88.*